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ONTARIO HUMAN RIGHTS COMMISSION

**ANNUAL
REPORT
1990-91**



Ontario
Human Rights
Commission

Commission
ontarienne des
droits de la personne

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June 28, 1991

The Honourable Elaine Ziemba
Minister of Citizenship with responsibility
for Human Rights, Disability Issues, Seniors
Issues and Race Relations
77 Bloor Street West
5th Floor
Toronto, Ontario
M7A 2R9

Dear Mrs. Ziemba:

Pursuant to Section 30(1) of the **Ontario Human Rights Code, 1981**, it is my pleasure to provide to you the Annual Report of the Ontario Human Rights Commission for the fiscal year 1990/91 for submission to the Legislative Assembly of Ontario.

This report reflects the activities of the Commission to March 31, 1991.

Yours sincerely,

Catherine Frazee

Catherine Frazee
Chief Commissioner



"Courage, partnership and innovation must prevail for us to reach our destination on the plateau of equality for all."

Catherine Frazee, Chief Commissioner
Ontario Human Rights Commission



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Courage, partnership and innovation must prevail for us to reach our destination on the plateau of equality for all.

Any person faced with the challenge of climbing up out of a canyon, begins by looking for an outcropping, something solid to grab on to. Ideally, what the climber wants is a series of ledges leading up out of the canyon, ledges that will bear the full force of her weight as she attempts to pull herself up to the face of the cliff.

For people who are disadvantaged by discrimination in Ontario, one of those ledges jutting from the cliffside is the **Human Rights Code**. It is the law that protects us from discrimination as workers and job seekers, as tenants and property owners, as consumers, customers and clients, and as members with full standing and dignity in our communities.

Aside from a series of solid ledges to stand on, our climber could make good use of a strong rope which is securely fastened to the top of the cliff.

When one person brings a successful human rights complaint, that victory secures a rope for

those who come later. And the more climbers that have gone before, the more ropes and options for different ways of climbing out of the canyon. Moreover, there are subsequent climbers don't have to worry about finding every toehold and outcropping, because earlier victories have established precedents, or short cuts to the top.

You will read in this report, the stories of some of the many climbers who tackled the cliff face during the past year. They are stories of people with courage and determination. They are stories of people who found a solid ledge in the provisions of the Ontario **Human Rights Code** that prohibit harassment and discrimination. They are stories of people gradually mapping individual routes toward the cliff top, some of them direct, some circuitous, some yet incomplete. They are stories of people who have successfully secured ropes to the top of the cliff, ropes that remain intact and which hang within the reach of subsequent climbers.

In the years ahead, many more Ontarians will seek to climb the cliff and to install new ropes that will enable others to follow. This progress must continue, for we can no longer afford as a society to exclude the contribution, talent and perspectives of our diverse population. The Human Rights Commission of Ontario will work with all of our collective skill and vision to coach, support and encourage the climbers, to chart preferred and alternate routes, to develop better tools and techniques, and to secure new ledges of policy and program as solid footings along the way.

Courage, partnership and innovation must prevail for us to reach our destination on the plateau of equality for all.

Catherine Frazee

The history of the Ontario Human Rights Commission in many ways parallels the development of human rights consciousness in the province.

In 1962 Ontario became the first Canadian jurisdiction to enact a comprehensive human rights code. The **Code** combined all the anti-discrimination and fair practices Acts that were passed during the 1940s and '50s. The Ontario Human Rights Commission was also created in 1962 to administer the **Code**, to investigate complaints of discrimination and to educate the public on human rights issues. In 1979 a Race Relations Division was added to the Commission to deal with growing discrimination against racial minority groups. The Division (now called the Anti-Racism Secretariat) was transferred to the Ministry of Citizenship in 1988.

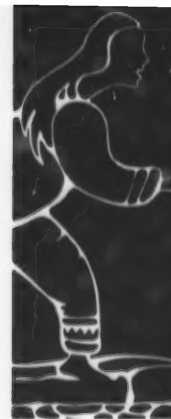
The **Code** was created to address widespread discrimination, particularly in employment. Between 1962 and 1972 several additional pieces of legislation were incorporated in the **Code**. These included the **Fair Housing Practices Act** (first in North America), which banned the use of discriminatory wording in real estate listings; the **Age Discrimination Act** prohibiting age discrimination and the **Women's Equal Employment Act**. Prohibited grounds for discrimination were added over the years, to a total of 15 now present in the **Code**.

The history of the Ontario Human Rights Commission in many ways parallels the development of human rights consciousness in the province. For example, it was common up to the 1940s to see public signs reading "Gentiles Only" or "No Jews or Dogs Allowed". Blacks and other racial and ethnic groups were repeatedly refused service in taverns and hotels and women were paid less than men for doing the same work.

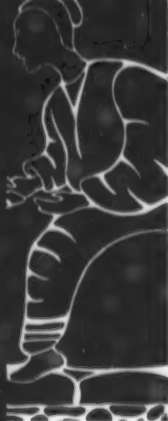
Between the '40s and the '60s, however, events such as the Holocaust, the dramatic increase in immigrants from countries other

than Britain and the growing number of women in the workforce, helped to create a radical shift in public attitudes toward discrimination. Community activists, trade union leaders and politicians began to demand stronger legislation to protect groups that were being discriminated against.

Between 1975 and 1977 when Life Together: A Report on Human Rights In Ontario was published, the Human Rights Commission conducted a comprehensive review of the changing human rights issues in the province. This led to the proclamation of a new **Code** in 1981.



HUMAN RIGHTS IN ONTARIO



The 1981 **Code** was strengthened to deal not only with acts of discrimination, but also with the *result* of discrimination caused by practices and policies that on the surface seem neutral, but which, when applied, discriminate against members of the protected groups. One example of such discrimination was the effect of policies requiring men in certain employment situations to have their faces shaved clean. This discriminated against, for example, baptized members of the Sikh religion who are prohibited from shaving their beards.

The new **Code** permitted the creation of 'special programs' to "relieve ...economic disadvantage... or to assist (groups protected by the **Code**) to achieve equal opportunity". This clause protected employment equity programs from charges of reverse discrimination. The tone of the **Code** was also changed from that of "No person shall discriminate...", to that of emphasizing the right of every individual to "equal treatment...without discrimination".

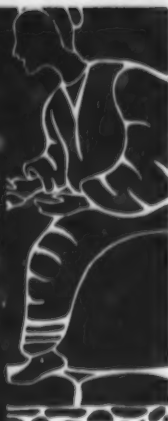
The most recent amendment to the **Code** was in 1986. Landlords, employers and service providers are now required to accommodate the needs of the protected groups, so long as doing so does not cause "undue hardship" to their organization. A new section was also written into the **Code** requiring accommodation of the special needs of persons with disabilities.

In 1986 also, discrimination on the basis of sexual orientation was prohibited.



HIGHLIGHTS IN OUR HISTORY

- 1962** Code enacted. Commission created.
- 1972** Code amended: affirmative action programs protected; housing provisions expanded; Commission given authority to initiate discrimination complaints.
- 1975** Commissioners appointed from the public, instead of from government employees.
- Review of Human Rights Code initiated by Commission.
- 1976** The Community, Race and Ethnic Relations Unit established to deal with community tensions and conflict.
- 1977** Report Life Together published. Became basis for the 1981 amendments to the Code.
- 1979** A Race Relations Commissioner appointed. A Race Relations Division created.
- 1981** Major revision of the Code: prohibited grounds for discrimination broadened; for the first time in Canada sexual harassment and unwanted sexual advances prohibited; the Code given primacy over all other legislation; discrimination on the basis of handicap prohibited.
- Commission launches a major public education campaign under the theme of "Together We Are One".
- 1985** Reconsideration Unit created to allow complainants to request that the Commission reconsider a decision not to send their cases to an independent Board of Inquiry.
- 1986** Discrimination on the basis of sexual orientation prohibited.
- Amendment requiring accommodation "short of undue hardship" for all groups covered by the Code.
- 1989** "Guidelines for Assessing Accommodation Requirements for Persons with Disabilities" released by the Commission, outlining the Commission's interpretation of the 1986 amendments to the Code.
- Major reorganization of the Commission. Six administrative Units created to streamline and increase effectiveness of operations.
- Series of policies and guidelines initiated to explain the Commission's interpretation of the Code.
- 1990** Commission outreach program held in Sudbury.
- Kenora Office opened.
- Commission Outreach Program held in Windsor.
- Case Management Plan launched to increase efficiency in case processing.



Commissioners are appointed by the Lieutenant Governor in Council upon recommendation by government. Members of the public interested in serving as Commissioners may apply for the positions through the Public Appointment Secretariat, which advertises vacancies.

Commissioners serve on a part-time basis for three years. The Chief Commissioner serves full-time for three years.

Commissioners represent a wide range of social and community interests. From their experience and involvement with community issues, they bring an understanding of human rights concerns at the local and provincial levels. Commissioners also meet and exchange information with a wide cross section of people, including representatives from business, labour and community organizations.

The roles and functions of Commissioners are described in the Ontario **Human Rights Code**. They include:

- promoting the **Code's** policy on the dignity, worth and equal rights of all persons in Ontario;
- promoting an understanding of the **Code**;
- reviewing statutes, regulations or programs found to be inconsistent with the spirit of the **Code**;
- initiating investigations into problems caused by discrimination and developing or coordinating remedies.

At regular meetings the Commission makes formal decisions regarding complaints filed under the **Human Rights Code**. They review proposed settlements to complaints and, where the parties cannot agree to settle, determine whether these cases should be sent to an independent Board of Inquiry or whether they should be dismissed. The Board of Inquiry is appointed by the Minister of Citizenship.

Catherine Frazee, Chief Commissioner



Catherine Frazee was appointed Chief Commissioner of the Ontario Human Rights Commission in September 1989 after serving four years as Commissioner. Prior to her appointment she served as Coordination Officer for Amnesty International, where she planned human rights campaign activities, consulted on political and communications strategies and developed the expertise of volunteers in international human rights advocacy.

Ms. Frazee received her post-secondary education at Carleton University in Ottawa and at Dalhousie Law School in Nova Scotia.

She has been actively involved in community organizations such as the Canadian Disability Rights Council; The Canadian Paraplegic Association and the Persons United for Self Help International. She also sits on the advisory board of the Ontario Law Reform Commission.

R. Lou Ronson, Vice-Chair

Mr. Ronson is a former Commissioner of the Anti-Defamation League of the B'nai Brith. He is currently a member of the League's National Advisory Council and has served as President of B'nai Brith Canada. Mr. Ronson is a lifetime Director and Honorary Vice-president of the Toronto Jewish Community Centre; a member of the board of Mt. Sinai Hospital in Toronto and a member of the management board of the Leah Posluns Theatre. Along with his wife he was honored in 1984 by the University of Haifa, with the establishment of the Hilde and Lou Ronson Foundation for Overseas Students, which provides scholarships to overseas students. He is also the founder of the R. Lou Ronson Institute on Anti-Semitism, administered by the League for Human Rights of B'nai Brith Canada.



Dr. George Bancroft



Dr. Bancroft is Professor Emeritus in the Department of Policy and Foundations of the Faculty of Education at the University of Toronto. He has taught in Guyana, Quebec, Ontario, and the U.S.; and has written extensively on social and educational issues. From 1965-68, Dr. Bancroft was a member of the Provincial Commission on Aims and Objectives of Education for the Schools of Ontario. He also served as Executive Director of the Multiculturalism and Citizenship Division of the former Ministry of Culture and Recreation. His three-year appointment to the Commission ended in February 1991.

John T. Cochrane

Mr. Cochrane is an Executive Board member of Local 6500, United Steelworkers of America. He is the first full-time Compensation Officer for his union, dealing specifically with industrial diseases in northern Ontario. Mr. Cochrane is also Director of FED-NOR, a federal government initiative to stimulate economic development throughout northern Ontario. His three-year appointment to the Commission expired in 1991.



Reva Devins

Ms. Devins has been a Commissioner since February 1987. She completed her undergraduate degree at York University and holds law degrees from Osgoode Hall and Harvard University. She served as law clerk to Mr. Justice Estey, former Justice of the Supreme Court of Canada. Ms. Devins is a member of the Bar of Ontario and has conducted legal research at the Canadian Human Rights Commission, as well as assisting council in a major provincial inquiry.

Elizabeth Kishkon

A resident of Windsor, Elizabeth Kishkon was appointed to the Commission in March 1986. She began her professional career as political commentator and interview host for the CBC in 1971, while serving as board member of various social service agencies. She is an active participant in community projects and municipal affairs, and served as Windsor's first woman mayor. She currently works as a freelance broadcaster.

Louis Lenkinski



A member of the Upholsterers' International Union for many years, Mr. Lenkinski served as its business representative from 1958 to 1969. Since then, he has held the positions of Project Director and Executive Secretary to the Labour Council of Metropolitan Toronto. In 1975, he became Executive Assistant to the Ontario Federation of Labour, and in 1984 was appointed a part-time member of the Ontario Labour Relations Board. Mr. Lenkinski joined the Commission in July 1987. He is also currently involved at an executive level in a number of community organizations.

Shirley O'Connor

Ms. O'Connor is a resident of Sioux Lookout and a former President of the Ontario Native Women's Association. She served as Executive Director of the Nishnawbe Gamik Friendship Centre and was a member of the Sioux Lookout Chamber of Commerce and the Town Council Economic Development Committee from 1984 to 1986. She also served on the Governing Board of the Sioux Lookout General Hospital and on the Board of Directors of the Ontario Metis and Non-Status Indian Association. Ms. O'Connor's three-year appointment to the Commission ended in February 1991.

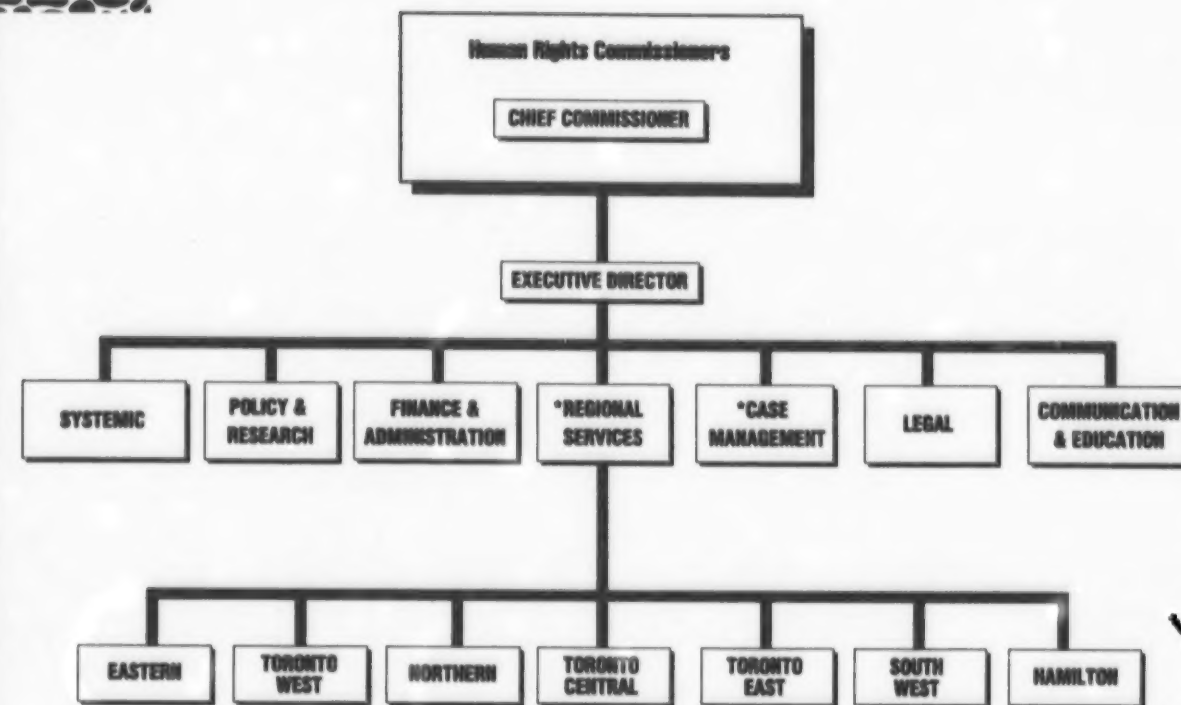
Mr. Philpott was appointed to the Commission in March 1989, bringing with him extensive private sector experience. He studied at the University of Toronto School of Architecture, and has worked in contracting, finance and investment, commercial real estate development and as a consultant. At present, Mr. Philpott operates his own company and holds directorships in other organizations, including the Canadian Opera Company. He has written a popular book entitled "Dangerous Waters".

Ms. Porter served for eight years with the Canadian Diabetes Association, as Executive Director of the Ontario Council on Diabetes and as the first Executive Director for the Ontario Division of CDA. She is currently coordinator of the Ministry of Health's diabetes services. Ms. Porter believes in the need for consumer-led advocacy and has volunteered her time to more than fifty organizations that advocate the recognition and strengthening of individual rights. She was appointed to the Commission in April 1989 and served during 1990-1991 as the Chairperson of the Commission's Outreach Committee. A native of London, Ms. Porter serves locally as a member of the Grand Theatre Board and Strategic Planning Committee. She is also a member of the Executive Committee and Board of Directors for the Canadian Centre for Philanthropy, and chairs that organization's Training and Development Committee.

Ms. Gill was appointed to the Commission in May 1989. She draws upon extensive experience in social work with the federal government's New Horizon grant program and as Executive Director of the Richmond Multicultural Concerns Society. She also served as Manager of the Counselling Services Team at the South Asian Social Organization. Ms. Gill has a social work degree and a science degree from the University of British Columbia, and is fluent in four languages.

PROFILES OF COMMISSIONERS

ORGANIZATIONAL CHART



* In March 1991, the Regional Services Unit was created to replace the Compliance Unit. A Case Management function was also created to exclusively handle case processing and monitoring.

INTRODUCTION TO CASES

Under the Code, the Commission may refer cases in which settlement cannot be reached to an independent Board of Inquiry appointed by the Minister of Citizenship. At these hearings the Commission is responsible for proving the allegation in the complaint. During 1990/1991 36 decisions were handed down by Boards of Inquiry. There were also 10 Board of Inquiry decisions under appeal to the Ontario Court of Justice. The cases in this section have been arranged according to the issues they addressed. They represent significant settlements, Board of Inquiry decisions and Court decisions in the area of human rights last year.

LIST OF CASES

ACCOMMODATING SPECIAL NEEDS

Gohm v. Domtar Inc. (No.4)
Gilbert Janssen v. The Ontario Milk Marketing Board
Mira Heinke v. Kenneth Brownell and Emrick Plastics
Youth Bowling Council of Ontario et al v. Tammy McLeod et al (Divisional Court)

MANDATORY RETIREMENT

McKinney et al v. University of Guelph et al (Supreme Court of Canada)
Large v. City of Stratford et al

DISCRIMINATION ON THE BASIS OF RACE

Persaud and Bhardwaj v. Consumers Distributing et al
Phil Grant v. Bob Willcock
Bhaddauria v. Toronto (City) Board of Education
The Board of Education for the City of Toronto v. Quereshi (Divisional Court)

EQUITY PROGRAMS

Roberts v. Ontario (Ministry of Health) (Divisional Court)
Canada Trust Co. v. Ontario Human Rights Commission (Court of Appeal)

SEX DISCRIMINATION/SEXUAL HARASSMENT

Youmans v. Lily Cups Inc. et al (Settlement)
Carol Shaw v. Levac Supply Ltd., and Roger Levac and Herb Robertson

DEVELOPMENT AND PSYCHIATRIC DISABILITIES

Karen Aquilina v. Stephanie Pokoj
June Kafato (on the behalf of the Summit Halfway House) v. Halton Condominium Corporation No. 4

DISCRIMINATION ON THE BASIS OF CREED

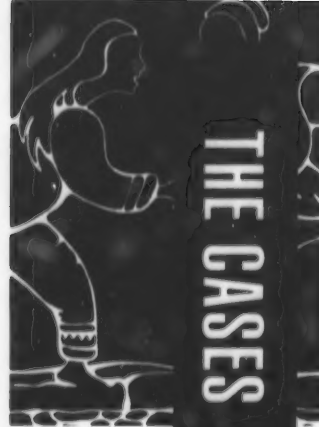
Pandori and the Human Rights Commission v. Peel Board of Education (Board of Inquiry and Divisional Court)

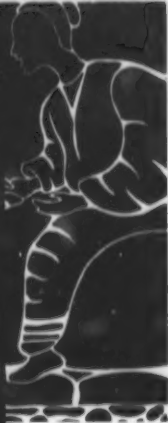
SPECIAL INTEREST GROUPS

Mr. Paul Gregory v. Donauschwaben Park Waldheim Inc. et al

DISCRIMINATION IN HOUSING

Dudnik et al v. York Condominium Corp. No. 216 (No. 2) et al (Board of Inquiry)





The duty to accommodate was enshrined in the Code when it was amended in 1986. The amendment stated that employers, landlords and service providers must make provision for the needs of employees, tenants and consumers, identified by the 15 prohibited grounds of discrimination in the Code.

The responsibility of employers, landlords and service providers to accommodate special needs was highlighted in a number of significant Board of Inquiry decisions last year. In the case of unionized workplaces, it was found that the union could also be held responsible for providing accommodation.

Accommodation means providing the resources or making the necessary adjustments so that members of groups protected by the Code can have equal access to employment, housing and services. It means removing barriers or restrictions which some people face because of, for example, a disability or membership in a religious group that worships on a particular day.

The duty to accommodate was enshrined in the Code when it was amended in 1986. The amendment stated that employers, landlords and service providers must make provision for the needs of employees, tenants and consumers, identified by the 15 prohibited grounds of discrimination in the Code.

The 1986 amendment reflected what the Supreme Court of Canada had already ruled in cases such as *O'Malley v. Simpson Sears (1986)*. In that decision Mr. Justice McIntyre ruled that a company's policies, even though neutral in and of themselves, could be considered discriminatory if they imposed unfair restrictions on a group protected by the Code. (The *O'Malley* case involved an employee who was a member of the Seventh Day Adventist Church, which prohibits its followers from working on Saturday. The court ruled that Simpson-Sears was responsible for making adjustments in the employee's work schedule to the extent that it was reasonable. The Code's 1986 amendment required employers to provide accommodation "short of

undue hardship" – a new and more stringent requirement.)

The case of *Heincke v Brownell and Emricks Plastics* addressed the subject of providing alternate job responsibilities to a pregnant employee.

Upon discovering Ms. Heincke was pregnant, Ms. Heincke's doctor recommended that she ask to be assigned to work in an area of the plant away from the painting booth where she worked as a spray painter. The company at first transferred Ms. Heincke to the packing area, but after three weeks asked her to provide more proof as to why she needed to be relocated.

Ms. Heincke obtained a letter, this time from her obstetrician, advising that she be removed from the area with paint fumes. Instead of accommodating Ms. Heincke, the company again claimed that the note was too vague and placed her on an unpaid leave of absence.

A series of events took place following Ms. Heincke's complaint to the Commission. Ministry of Labour technicians twice tested the plant's air quality to determine

The Board also found that expert testimony confirmed that there was at least a doubt as to whether a pregnant woman should be exposed to paint fumes. Based on this doubt, the Board said, the company had a duty to accommodate Ms. Heincke.

whether there was justifiable cause for concern for the woman's health. The company used the result of the first test to support its claim that a transfer was not merited.

The Board of Inquiry ruled that the second test, which took a wider set of factors into consideration, was more accurate. The Board also found that expert testimony confirmed that there was at least a doubt as to whether a pregnant woman should be exposed to paint fumes. Based on this doubt, the Board said, the company had a duty to accommodate Ms. Heincke.

Finally, the Board found that the company could have accommodated Ms. Heincke, in light of the fact that it had been hiring new employees to perform packing duties. The Board ruled in Ms. Heincke's favor and awarded her more than \$21,000 for lost wages and damages.

Religion is another ground on which increasingly, requests are being made for accommodation. In the case of *Gohm v. Domtar Inc (No.4)*, the complainant, Irene Gohm, did not reveal during her pre-employment interview that her religion prevented her from working Saturdays, even though it was explained to her that she would have had to work some Saturdays. She was afraid she might have lost her chance of obtaining the job.

After she was hired, Ms. Gohm requested that the company allow her to perform the tasks she would normally do on a Saturday, on a Sunday instead. After some negotiation the company and the union

agreed to allow Ms. Gohm to work on Sundays. The union, however, cited a clause in the collective agreement requiring that work on Sunday be regarded and paid as overtime. The company felt this would be unfair to the employees who worked on Saturday at straight pay.

The company eventually fired Ms. Gohm. It later agreed to re-hire her on condition that she make herself available for work on Saturdays, although where possible, it would make an effort to find replacements for her Saturday shift. Ms. Gohm refused these conditions and was not hired. She filed a human rights complaint citing the company and the union as respondents.

The Board of Inquiry found the company liable because it did not offer Ms. Gohm work on Sunday at straight-time, nor did it offer to negotiate the matter with the union. Such actions would have indicated that it had at least made an effort to accommodate the employee. Instead it offered to accommodate Ms. Gohm only if the union agreed.

The Board also ruled that given the financial resources of Domtar, it could not be considered undue hardship for the company to afford the roughly \$160 a year it would cost to pay Ms. Gohm for overtime on Sunday. The Board also





The Court also found that permitting Tammy to use a ramp did not cause undue hardship, because her use of a ramp did not give her a competitive advantage in the game.

ruled that the union did not make enough effort to arrive at a compromise solution in light of the collective agreement.

The Board ordered the company and the union to jointly reimburse Ms. Gohm's salary loss with interest, for the two years following her termination during which, despite extensive efforts, she was unable to obtain another job. The amount totalled more than \$74,000.

A third critical ground on which accommodation issues were addressed last year was that of physical disability. The vast majority of accommodation cases before the Commission centre on issues relating to disability. In the case of **Tammy McLeod v. the Youth Bowling Council of Ontario et al** the complainant, Tammy McLeod, was disqualified from competing in a divisional tournament even though she had won the local and national championships. The Council said she was ineligible to play, because her disability required her to use a ramp to deliver the ball instead of delivering the ball free hand.

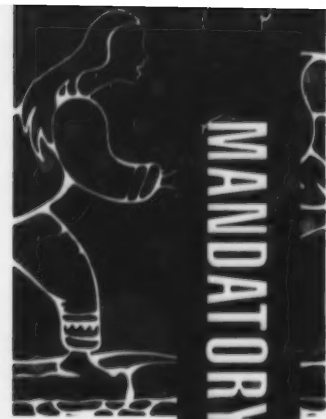
The Divisional Court upheld the Board of Inquiry decision that Tammy was denied equal treatment.

The Court concluded that the Council's rule that players must deliver the ball manually had a negative impact on some players with disabilities. Such players, the Court said, should be accommodated, short of undue hardship to the organization. The Court also found that permitting Tammy to use a ramp did not cause undue hardship, because her use of a ramp did not give her a competitive advantage in the game. Tammy was allowed to use the ramp in question in her bowling competitions.

The issue of accommodation in the workplace is one that will continue in importance as we enter the 1990s.

Companies' obligation to accommodate the special needs of employees will have major implications for pregnant women; persons with disabilities; women with small children and indeed men who are primary caregivers to their children. Statistical and social trends indicate that many women leave the workforce, sometimes at the peak of their careers, because of the heavy burden of juggling full-time jobs with the responsibility of caring for small children and sometimes older parents.

Increasingly women as well as men are demanding alternatives to terminating or putting their careers on hold. In this context, last year's Board of Inquiry decisions could have major implications for the provision of workplace accommodation.



MANDATORY RETIREMENT

During the past year the subject of mandatory retirement came to a head after challenges to the Human Rights Codes of Ontario and British Columbia led to a major Supreme Court of Canada decision.

Canadian mandatory retirement programs came into being with the creation of private and public security plans. Public pension plans began in 1927 with the introduction of the Old Age Pension Act, which adopted 70 as the age at which benefits would be paid. This was lowered to 65 in the 1960's. Other programs such as Old Age Security and the Guaranteed Quebec Pension Plans also provided that retirement benefits be paid beginning at age 65.

Some 50 percent of Canadian workers occupy jobs that are subject to mandatory retirement. About two-thirds of Collective Agreements in Canada contain mandatory retirement provisions at age 65, a clause which was in most cases negotiated by workers. (The Ontario **Human Rights Code** provides protection in employment to persons between 18 and 65).

Mandatory retirement has become part of the fabric Canada's labour market. There has been in recent years, however, a significant change in society's view of what used to be seen as a reward for a lifetime of service. With medical and technological advancements, many older workers enjoy good health and wish to continue working past 65.

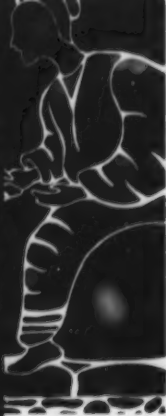
A mandatory retirement age is seen by some as a compromise between protecting individuals from discrimination in employment and giving both employer and employee freedom to agree on a termination date of employment. This freedom permits employers to plan their financial obligations for pension and benefit plans; to facilitate the recruitment and training of new staff; to develop seniority systems and generally to work with the knowledge that the work relationship will end at a definite date. Employees can also plan for their retirement well in advance.

In Ontario, eight university professors and a librarian filed a complaint with the Ontario Human Rights Commission alleging that the mandatory retirement policy of the universities for which they worked discriminated against them on the basis of their age. (See **David McKinney et al v. Board of Governors of the University of Guelph et al.**) The Commission declined to deal with the complaint on the ground that the **Code** does not provide protection from discrimination in employment past 65.

The parties began a Court action alleging that the universities' mandatory retirement policies violated the equality guarantees of the Charter of Rights. They also argued that the **Code's** limit of protection based on age violated the Charter. (Section 15 of the Charter states that "every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national origin...age or mental disability".)

The case reached the Supreme Court of Canada and last year the Court made its finding.

The majority of the Court held that the actions of the universities do not fall within the scope of the Charter because the universities are not part of government. Their mandatory retirement policies therefore do not constitute government policy.



The Court went on to consider whether such retirement policies would have violated the Charter had the universities been subject to the Charter. The Court held that mandatory retirement policies would be discriminatory and contrary to the equality rights provisions of section 15 of the Charter.

The Court ruled, however, that even though the policies were discriminatory, they were protected by Section 1 of the Charter, which states that rights and freedoms are subject to reasonable limits prescribed by law, once these limits can be demonstrably justified.

Justification in the case of university faculty would be related to excellence in education; maintenance of the tenure system; the need to renew staff and the need to maintain academic freedom with a minimum of supervision and performance testing. As well, retirement at age 65 would have profound implications for pension plans and opportunities for younger staff. One Justice went so far as to state that "a ruling that mandatory retirement is constitutionally invalid would impose on the whole country a regime not forged through the democratic process but by the heavy hand of the law".

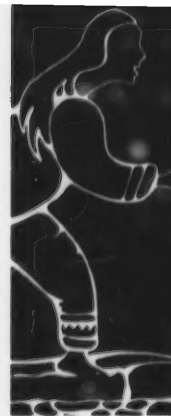
The Court then went on to consider whether the Code itself was discriminatory. The majority of the Court concluded that failure to extend protection to employees over 65 was discriminatory but justified under Section 1 of the Charter.

One objective of mandatory retirement, as stated by the Court, was to open the labour market up for younger unemployed workers. The problem of unemployment would be aggravated if employers were unable to retire their long term workers.

While the Code permits employers to impose a mandatory retirement age of 65, any agreement for retirement prior to 65 is still subject to the Code. In the case of **Albert Large v. the City of Stratford et al.**, a Board of Inquiry rejected a bid by the Stratford Board of Police Commissioners to retire Mr. Large at 60, although he was willing to work until 65. There had been an agreement between the Police Commission and the Police Association that members should retire at age 60.

The Board of Inquiry rejected the arguments put forward by the Police Commission around:

- a) psychological, sensory and mental factors. The evidence of decline in mental processing of information did not substantiate the argument that mandatory retirement at age 65 was reasonably necessary for police officers;
- b) cardio vascular concerns. There was no substantial evidence put forward to compel retirement at age 60 on the grounds of high risk of cardio vascular disease;
- c) muscle condition and aerobic capacity. The evidence on age-related muscle condition was limited and it was not sufficiently linked to support the mandatory retirement rule of age 60.



Racial discrimination in Ontario has long been recognized by the provincial Legislature. Some of the earliest anti-discrimination legislation was aimed at prohibiting discrimination on the basis of race.

Racial discrimination in Ontario was highlighted last year in the dramatic case of **Phil Grant v. Bob Willock**. The Board of Inquiry found that Mr. Willock refused to sell Mr. Grant his cottage solely because Mr. Grant is black.

Counteracting Mr. Willock's claim that he had the right to sell his cottage to whomever he pleased, Board chair Errol Mendes stated: "Liberty is indeed the cornerstone of our society. But if we do not wish to undermine it, we should put it in its proper perspective in any conflict, before we ..use it to protect a host of evils".

Racial discrimination in Ontario has long been recognized by the provincial Legislature. Some of the earliest anti-discrimination legislation was aimed at prohibiting discrimination on the basis of race.

The first Ontario **Human Rights Code** passed in 1962 prohibited discrimination on only a limited number of grounds, mainly those related to race i.e. race, colour, nationality, ancestry or place of origin. These grounds continue to form a significant portion of the complaints received by the Commission.

One of the first areas where racial discrimination was identified was in the sale and leasing of property.

The **Phil Grant v Bob Willock** case indicates that there are still expressions of blatant racism in our society today. According to testimony in the hearing, Mr. Willock appeared interested in selling the cottage to Mr. Grant's wife, who is white. When she brought her husband to view the cottage, how-

ever, Mr. Willock appeared reluctant to sell it to them, claiming that he had a relative who was interested in buying the cottage.

Some time after, Mr. Grant's mother-in-law, posing as an interested buyer, enquired about the cottage and was told that it was still for sale. While showing Mrs. House the cottage, Mr. Willock was said to have made derogatory racial remarks about Mr. Grant, whom he did not know was related to Mrs. House. Mr. Willock later sold the cottage to another buyer for less than the amount Mr. Grant had offered

The Board ordered Mr. Willock to pay Mr. Grant \$3,000 in damages for "the injury suffered to his dignity and self respect".

The vast number of race complaints, however, arise in the area of employment. The existence of racial discrimination in employment is of particular concern to the Commission.

In the case of **Bhardwaj v. Consumers Distributing Ltd. and Gary Dassy**, Mr. Dassy, who was involved in a work-related dispute with Mr. Devinder Bhardwaj, physically attacked him and called him derogatory racial names. The Board of Inquiry found that the *motive* for the attacks and the verbal abuse was work-related and because of race. The Board then defined racial harassment in the workplace. According to chairman Peter Cumming:



"Racial harassment is present when one person insults another person on the basis of his race, color, ancestry and place of origin, irrespective of the underlying events that trigger

the outburst. Such harassment is contrary to ...the **Code** and Mr. Dassy is in breach of that provision.

"When derogatory racial references are used between employees in the context of a heated argument... as an expression of anger and frustration, such racial references constitute racial harassment".

Mr. Dassy was ordered to pay Mr. Bhardwarj \$1,500

The **Code** holds employers responsible for making sure that their work environment is free of racial harassment and name calling. Prompt and appropriate action by management will not only create a better environment for all, it can mean the difference in a Board of Inquiry ruling.

For example, in **Persaud v. Consumers Distributing Ltd. and Cliff St. Pierre**, the Board of Inquiry ruled in favor of the employer, because management

took steps to address charges of discrimination in the workplace by making it clear that racial name-calling would be a matter for discipline. Racial graffiti on bathroom walls were also regularly cleaned.

The Board found that because Consumers took the action it did, including in one case mediating between the two feuding employees, it showed that it did not "authorize, condone, adopt or ratify ...actions of harassment". Consumers was therefore not found liable in the two cases.

Another area in which racial minorities continue to experience discrimination is in employment interviews. This phenomenon is supported by studies such as Who Gets the Work, sponsored by Toronto's Urban Alliance on Race Relations, which showed that even with identical resumes white actors (who posed as job seekers) were offered jobs three times as often as black actors.

In **Bhadauria v. Toronto (City) Bd. of Education** although the Board of Inquiry disagreed that Mr. Bhaduria was personally disadvantaged by the Board's interview process, Board Chair Paula Knopf acknowledged that "the evidence is convincing that untrained interview teams conducting unstructured interviews may well be putting South Asians and other visible minorities in a disadvantageous position because their personal qualities will not be recognized".

These decisions illustrate the broad spectrum of racial discrimination which exists today. Blatantly racist attitudes are evidenced in actions such as refusing to sell property to a person because of colour and using racially derogatory insults.

At the other end of the spectrum it is the question whether apparently neutral structures such as employment interviews operate to disadvantage members of different cultural groups.

"We now know that to treat everyone the same may be to offend the notion of equality."

Rosalie Silberman Abella



EQUITY PROGRAMS

Section 13 of the Code allows for the creation of 'special programs' such as affirmative action or equity programs. These programs are designed to correct disadvantage to certain groups caused by, among other reasons, a history of discrimination in society.

Historically, the concept of equality has been interpreted to mean that all persons should receive the same or similar treatment. But over time, we have come to recognize that the provision of the same or similar treatment to all persons or groups does not always yield an equal result, nor does it guarantee true equality. In the words of Judge Rosalie Silberman Abella, "We now know that to treat everyone the same may be to offend the notion of equality."

In August 1990, the Commission released its Guidelines on Special Programs as a working document. The Guidelines, developed by the Commission's Systemic Unit, explain the Commission's interpretation of Section 13 and the measures allowed under it. The message is that more than just avoiding deliberate discrimination, employers and service providers should adopt a broader view of equality and develop programs to actively promote equity.

As the Guidelines were being prepared, equity issues were becoming a topic of debate. The Ontario College of Art announced its plan to preferentially hire women into positions vacated by retiring faculty members. The plan would be enforced until the college's workforce reflected the representation of women in the society at large. The OCA sought approval from the Commission to implement its program under Section 13.

Through an extensive media campaign, the Commission invited submissions from interested parties and studied the matter. In July 1990 the Commission issued an Order stating that the OCA program did fall within the Guidelines for Special Programs under Section 13. The issuing of this Order means that the OCA has a defence to any complaints filed against the program.

The Order was issued with the proviso that:

- it remain in effect for a maximum of two years and;
- prior to June 1991 the OCA submit a detailed report to the Commission on the progress of the program. The report should also outline OCA's plans for implementing a similar program for Aboriginal Peoples, persons with disabilities and racial minorities.

This was the first such Order under the new Guidelines adopted by the Commission.



The Commission is appealing a case, **Edwin Roberts v. the Ministry of Health**, where Section 13 was used by the respondent as a defence to a complaint from a person excluded by a special program.

The Ministry's Assistive Devices Program provided funding for persons with disabilities to purchase assistive devices, but maintained an age restriction in order to limit the scope and cost of the program. When the age restriction was challenged, the Ministry argued that its program relieved hardship for persons with disabilities and was therefore permitted under Section 13.

The Commission argued that it is legitimate and reasonable for an organization to address the concerns of one identified group (or a subsection of a group), provided it supplies proof of special disadvantage. The Ministry's age restriction would have satisfied the Commission, for instance, if it had been based on objective proof that persons of a certain age with disabilities were especially disadvantaged and in need of assistive devices.

The Board of Inquiry disagreed with the Commission and held that although there was age discrimination in the program, the program was protected under Section 13 because it did assist some disadvantaged people. The Commission appealed this decision but the Divisional Court in December 1990 upheld the Board decision. In March 1991 the Commission decided to seek leave to appeal further.

The Commission's position on Section 13 is that it does not allow a Special Program for the benefit of one disadvantaged group (in this case persons with disabilities), to discriminate on other grounds (e.g. age).

The Ontario Court of Appeal decision of **Canada Trust Co v. OHRC** provides support for the Commission's view of special programs. The Court considered whether public policy would permit a charitable trust to administer educational scholarships restricted to white Christian males of British ancestry. The scholarships were reserved for financially needy members of that group.

The Court concluded that such a trust would not be allowed because it would discriminate on the grounds of race, colour, nationality, ethnic origin, religion and sex.

Mr. Justice Tarnapolsky noted that many educational scholarships in Canada are restricted to racial minorities, women and other disadvantaged groups. He pointed out that such scholarships would not be considered discriminatory in cases where the restrictions are aimed at achieving equality. The social and historical context of the group concerned would have to be considered.

In the Commission's view although the Leonard Foundation scholarships aimed at relieving hardship among financially disadvantaged students, there was no evidence that these students suffered disadvantage because of their race, gender, creed or other ground under the Code.

Women also frequently confront unequal conditions in the form of sexual harassment in their place of employment.



SEX DISCRIMINATION & SEXUAL HARASSMENT

Women in Ontario continue to experience discrimination in the area of employment. They continue to be under-represented in the workforce in higher paying positions; they are frequently under-utilized in light of their qualifications; and they are often clustered in low paying job "ghettos".

Women also frequently confront unequal conditions in the form of sexual harassment in their place of employment.

In the past year, two Commission cases addressing sex discrimination and harassment have made a significant contribution to equity issues for women. In the case of *Karen Youmans v. Lily Cups Inc. et al.*, a comprehensive and far-reaching settlement was negotiated, resulting in significant changes in the company's staffing practices.

In her complaint, Ms. Youmans alleged that during the course of her employment with the company she was subjected to discrimination, including harassment on the basis of her sex. Ms. Youmans worked with Lily Cups Inc. as a packer, a job which was at the time exclusively occupied by women.

After about one year with the company, she was hired as a service person, a position which paid more than packing; which was usually seen as an entry level job for men and which was dominated by men.

While in this position, Ms. Youmans claimed that her supervisors harassed her in a number of ways, including denying her a transfer to another shift, denying her overtime work, delaying her receipt of Workers' Compensation benefits and spreading rumours about her character.

She complained also that the provisions of the Collective Agreement only recognized seniority based on departmental service. This meant that women's seniority in areas traditionally staffed by women would not be recognized if they transferred to another department.

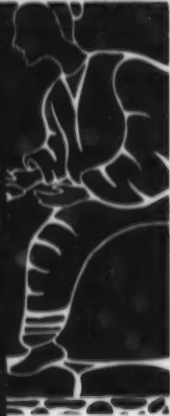
In such a case then, Ms. Youmans could be laid off from her job as a service person before a male worker who began working for the company as a packer after she did. She would also be recalled from layoff after that male employee and would thus be at a disadvantage in competitions for higher paying positions.

The complaint was referred to a Board of Inquiry but was resolved by agreement among the parties before the Board heard the evidence.

As part of the settlement, Lily Cups eliminated differences in pay among entry level positions, creating a single entry level classification. It also introduced a plant-wide seniority system for the purposes of the collective agreement.

Lily Cups agreed to:

- hire a minimum of one woman out of every two job competitions for designated positions beyond entry level. This would continue until the company achieved a percentage of women in those posi-



tions that reflected the number of women working in entry level positions (approximately 50%);

- create an on-going pool of female employees interested in advancement and to provide them with opportunities for obtaining the necessary skills for upper level positions;
- compensate the complainant in the amount of \$13,800 calculated on the basis of the alleged denial of job opportunities, lost wages and general damages.

This agreement was incorporated into the order by the Board as a means of resolving the complaint. It is the first order of an Ontario Board of Inquiry specifying an employment equity program with clear numerical goals for women in positions beyond entry level.

In the case of **Carol Shaw v. Levac Supply, Roger Levac and Herb Robertson**, Ms. Shaw claimed that over the course of her fourteen year employment with the company, she was subjected to demeaning comments and innuendos by a male co-worker, concerning her ability to do the job and concerning her physical appearance. The harassment eventually caused her to resign.

The Board of Inquiry held that comments mimicking the complainant and drawing attention to the fact that she was overweight, amounted to sexual

The Board of Inquiry held that comments mimicking the complainant and drawing attention to the fact that she was overweight, amounted to sexual harassment.

harassment. This ruling significantly broadened the interpretation of the section of the **Code** addressing harassment based on sex.

The Board found that "to express or imply sexual unattractiveness is to make a comment of a sexual nature" and that such verbal conduct "constitutes sexual harassment in the workplace if it is repetitive and has the effect of creating an offensive working environment....".

The Board also ruled that co-workers' behaviour amounted to gender harassment.

This case is also the first under the amended **Code** in which a Board found an employer liable for the harassing conduct of its employee. Ms. Shaw's co-worker, supervisor and the company were found jointly liable in an award of \$5,000 for general damages and \$43,000 for specific damages.

The Board of Inquiry decision in the case of **Karen Aquilina v. Stephanie Pokoj** provided an excellent example of the Code's declaration that "it is public policy in Ontario to recognize the dignity and worth of every person... [in the] creation of a climate of understanding and mutual respect..."

In 1981, the Code was amended to add "handicap" as a prohibited ground of discrimination. The definition of "handicap" includes "a condition of mental retardation or impairment". The preferred terminology is 'a person with a developmental disability'. The Aquilina decision makes it clear that the Code prohibits personal and harassing comments against persons with disabilities.

Ms. Aquilina, who has cerebral palsy involving some cognitive deficiency, rented an apartment from Ms. Stephanie Pokoj. Ms. Pokoj attempted to control Ms. Aquilina's personal life, commenting on her make-up and involvement with male friends.

When Ms. Aquilina resisted this interference, Ms. Pokoj responded by making negative statements about her disability. She directed cruel verbal insults at her about her mental capacities. The Board of Inquiry awarded Ms. Aquilina special damages to compensate for moving costs and \$2,000 in general damages.

In recognizing and protecting the rights of persons with disabilities, the Code acknowledges their "inherent dignity" and right to "feel a part of the community". Mental disabilities are often subject to stereotyping and discrimination.

In the fall of 1982 Summit Halfway House, a non-profit organization that runs group homes for ex-psychiatric patients, leased a townhouse unit from Halton Condominium Corporation in Burlington.

When the Corporation realized that the occupants were going to be ex-psychiatric patients, it attempt-

ed to enforce a section of its condominium Declaration that allows only single families to occupy the residences. This would make it impossible for a group home to be run on the premises.

The Board of Inquiry ordered the corporation to interpret its Declaration in such a way as to allow group homes for persons with mental disabilities.

One interesting aspect of cases such as **Aquilina** and **Summit Halfway House**, is that there are often other factors involved that would seem to suggest that the action toward the persons with disabilities was justified. For example, Ms. Aquilina's complaint against Ms. Pokoj was complicated by the fact that there were also landlord-tenant problems involved in their dispute. The question, said Board Chair Berend Hovius, was whether Ms. Pokoj's behaviour toward her tenant was motivated by the tenant's disability.

" This aspect of the case presents some difficulty. Mrs. Pokoj rented the apartment to Ms. Aquilina without regard to the handicap and the two of them got along well initially...Problems then developed [when]... Mrs. Pokoj began to view Ms. Aquilina as an undesirable tenant ...To some extent therefore Mrs. Pokoj's harassment was motivated simply by a desire to get rid of a tenant..."

He ruled that the disability affected " both the intensity and the nature" of the harassment. He pointed to the fact that in criticizing Ms. Aquilina's use of heat when the weather was warm outside, she used a slur to associate her action with her disability. In responding to Ms. Aquilina's use of electricity, Ms. Pokoj turned the lights off on the stairs, even though she knew Ms. Aquilina had problems with physical coordination.

DEVELOPMENTAL AND PSYCHIATRIC DISABILITIES

DISCRIMINATION ON THE BASIS OF CREED

Employers, landlords and service providers are required to accommodate the religious needs of their employees, tenants and clients.

The increase in Ontario's multicultural diversity has inevitably brought with it a variety of religious observances. Employers, landlords and service providers are required to accommodate the religious needs of their employees, tenants and clients. This requirement was challenged, then confirmed, in two decisions last year involving the Peel Board of Education.

Commission staff met with members of the Sikh community and were told that the community was concerned over the lack of accommodation for their religious beliefs.

The Commission initiated a complaint against the Peel Board of Education on behalf of Sikh students, who were not allowed to wear their ceremonial daggers (kirpans) to school. The complaint was combined with that of Harbajan Pandori, a Khalsa (baptized) Sikh who wears a ceremonial kirpan. Pandori was advised by the Peel Board of Education that he would not be considered for supply teaching work unless he agreed to cease wearing his kirpan while in Peel schools.

A Board of Inquiry ruled that baptized Sikhs must be allowed to wear their kirpans in Peel schools. The ruling applied to teachers, staff and students. This decision came against the backdrop of Sikh RCMP police officers being allowed to wear turbans as part of their uniforms. A number of local municipalities were also examining their own policies on religious accommodation.

Gunther Plaut, appointed as a Board of Inquiry to hear and determine the complaint, found that the policy of the Peel Board of Education contravened the Code, and ruled that the policy must be withdrawn.

The Board of Inquiry also ordered that the school board must " make available ... funds [necessary to] assist principals in safeguarding both the legitimate exercise of religious freedom and the safety of all students, teachers and staff."

The Board of Inquiry instructed that kirpans worn to school should be "of reasonable size; that they shall not be worn visibly, but under the wearer's clothing; and that they shall be sufficiently secured so that removal, while not impossible, shall be rendered difficult."

The decision was appealed by the Peel Board of Education.

The intent of the organization must be in keeping with the spirit of the Code, respecting the dignity and inherent worth of all people.



In Section 17, the Code permits activities that are designed to preserve institutions that cater to religious, philanthropic, educational, fraternal or social interests of particular groups in society. It is under this section that support is given for multicultural organizations, as in the Board of Inquiry ruling in the case of **Gregory v. Donauschwaben Park Waldheim**.

Preserving Canada's multicultural heritage is a social objective reflected in the fundamental law of our country.

Section 27 of the Canadian Charter of Rights and Freedoms provides that the Charter be interpreted in a manner consistent with the preservation and enhancement of Canada's multicultural heritage.

It is important to note that section 17 of the Code could not be used to support the creation of, for example, white supremacist organizations. The intent of the organization must be in keeping with the spirit of the Code, respecting the dignity and inherent worth of all people.

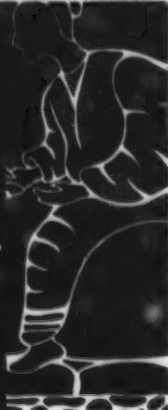
In the case of **Gregory v. Donauschwaben Park Waldheim Inc.**, a person of non-German descent attempted to purchase a house that was part of property reserved for sale to persons of German extraction. The Board of Inquiry found that the Donauschwaben Park Waldheim Inc., which restricted the sale of its cottage properties to persons of German extraction or persons who speak German, was protected under section 17. The Board found that the non-profit Park carried out a

program of social and cultural activities designed to preserve and pass the German cultural heritage on to future generations.

The aim of the organization that ran the park was to:

- cultivate friendship among its members in order to further social and cultural objectives;
- advance the intellectual and physical well-being of its members
- support members in distress or need

Only members of the organization were entitled to occupy the property owned by the Donauschwaben group, whose activities include folk dancing, a choir, a brass band and an accordion band. Members of the organization met regularly to discuss maintenance of the park and were also responsible for its upkeep. Meetings are conducted in German and there are exchanges of visits as well as joint activities with other Donauschwaben groups.



One of the most extensive investigations in Commission history was initiated at the end of January 1991, when the Commission filed complaints against two Toronto employment agencies.

BACKGROUND

Since the mid-1970s, there have been a number of studies and surveys, particularly by the Canadian Civil Liberties Association, which have documented and condemned discriminatory practices by employment agencies. Such practices are especially difficult to investigate using the traditional approach, because the discrimination is usually rooted deep within organizations' systems of operation.

Most people apply to employment agencies expecting they will eventually be referred to employment. They are dependent on the agency itself to obtain the information about possible job openings. If they are not referred, they usually conclude that there were no openings for persons with their qualifications.

The allegations which surface persistently in Canadian and U.S. studies, however, are that employment agencies often act as intermediaries, used by recruiters to refer the "right" — white; young; attractive — kind of candidate. Qualified candidates from other groups are simply ignored.

It was against this backdrop that the Commission received information from a former employee of two Toronto agencies, suggesting that the agencies were engaging in blatantly discriminatory practices.

Having diagnosed the problem as a function of the way the referral system worked, the Commission through its Systemic Investigation Unit decided to take a strategic enforcement approach to the investigation. The information provided on the two agencies, combined with the research available on the practices of employment agencies, allowed the Commission to make a decision initiating investigations into their practices. The Commission felt that if the investigations identified structural barriers, a remedy could be devised that would help reshape the industry.

The Commission's decision dovetailed with two important external factors:

1) Community Concern: For some time, the Commissioners had been concerned about the issue of employment agencies and the impact of their practices on groups protected under the Code. Staff of the Systemic Unit consulted with organizations representing minority communities on this issue and found broad-based support for the Commission's involvement.

Following consultation the Commission decided to use its powers to initiate a complaint against both agencies, alleging discrimination on the grounds of race, colour, sex, handicap and age.



2) A new survey: About two weeks before the Commission launched its initiative, the Canadian Civil Liberties Association released yet another study of the industry, this time a phone survey of 18 agencies, 15 of whom expressed a willingness to discriminate on behalf of the "client" who called. The media attention generated by this study helped prepare the ground for the first human rights investigation its kind in Canada.

A detailed investigation plan was prepared and the initiative was approved by the Commission. On January 31, 1991 the two investigation teams arrived at the headquarters of each agency. After some negotiation and consultation with legal counsel, both agencies agreed to allow the investigation teams full access to their documents and records.

PLANNING AND TEAMWORK

The Systemic Unit took responsibility for coordinating the initiative, preparing two teams of four human rights staff each, for the preliminary investigation phase. Staff members from other parts of the Commission were also involved. They included a member of the legal staff with experience in fraud investigation; a senior human rights officer with expertise in freedom of information and privacy issues; and several seasoned human rights officers. To handle computerized records, forensic accountants were hired. Their job would be to accompany each team in order to gain access to agency computers and copy information for off-site analysis.

RESULTS

The investigation proceeded smoothly and on schedule. Investigators finished their on-site work within two weeks of their arrival. One week later, preliminary analysis of the investigation teams' findings was completed.

Early in the investigation, both agencies expressed interest in finding a speedy resolution to the complaints. (Section 32.1 of the Code instructs the Commission to "endeavour to effect a settlement" upon investigating a complaint). In March 1991 staff obtained letters of commitment from the two agencies, T.E.S. Contract Services and Ian Martin Limited. The agencies agreed to take broad remedial action, subject to approval by the Commission.

From the outset, the Systemic Unit envisioned a broad, comprehensive remedy that could become a guideline for the industry. The proposed agreement with the two agencies directly addressed the findings of the investigation, but were generic enough to bear on industry practices generally.



Subject to approval from the Commissioners, the two respondents have committed to:

- a. develop written policies regarding the recording of information in applicant files and the handling of discriminatory job requests;
- b. provide training to their staff in the areas of human rights, race and ethnic relations, managing diversity, employment equity, accommodation and gender issues and human resources management;
- c. develop a detailed record keeping, data collection and data retention system;
- d. provide reports to the Commission, at regular intervals on the number of referrals and placements made;
- e. hire a consultant to devise and implement an employment equity plan with respect to placements and staffing profile.

As part of such an agreement, the Commission would monitor the agencies to ensure that suggested remedies are being put in place. The Commission might also conduct spot audits to make sure that the agencies are abiding by the Code.

Settlement discussions are still underway. If the Commissioners reject the proposed settlement, they could direct that a new settlement be negotiated, or they could request the Minister of Citizenship to appoint an independent Board of Inquiry to hear the evidence gathered in the investigation and make a decision in the case. They could also under Section 35 dismiss the case if the evidence does not warrant appointment of a Board of Inquiry.

IMPACT

While the investigation was underway, the Ministry of Labour, which licences employment agencies, approached the Commission for advice on developing more effective regulations for the employment agency industry. The Commission suggested that several elements of the proposed agreement with the agencies in this case be included in any new regulations.

There has been extraordinary and continuing media coverage, as well as a number of calls from employment agencies requesting education sessions. Employment agency associations have met with Commission staff and there has been increased interest in other parts of government concerning the Commission's approach to investigating systemic discrimination.

Some agencies have also volunteered to develop employment equity programs and have consulted with the Commission on how such programs might work.

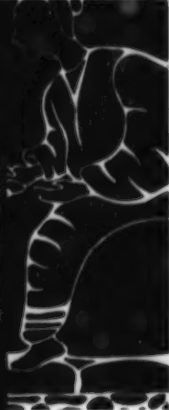
In 1986, "sexual orientation" was added to the list of grounds upon which discrimination is prohibited under the Code. This amendment came into force at the end of 1988. Consequently, the Code now prohibits discrimination on the basis of sexual orientation in employment; in the provision of goods and services; in facilities; in accommodation; in contracts; and in membership in vocational associations.

In the last year, one aspect of discrimination based on sexual orientation, spousal benefits for the same-sex partners of gay men and lesbians, has gained increasing prominence. Until recently, most employers failed to provide dental, medical and other employment benefits to the same-sex partners of gay and lesbian employees. Heterosexual employees, however, were able to claim such benefits, typically described as "spousal" or "dependent" benefits, for their legal or common-law spouses.

This discrepancy in the provision of spousal benefits formed the basis of a complaint filed against the government of Ontario in its capacity as employer. In 1990, this complaint was referred by the Commission to a Board of Inquiry. Shortly after the Commission's decision to refer this complaint to a Board of Inquiry, the government of Ontario announced that it would extend most spousal employment benefits to the same-sex partners of its gay and lesbian employees.

At present, the parties to this complaint are examining possible changes to the one outstanding benefit, pensions, which is currently not available to the partners of gay and lesbian employees.

The government of Ontario is not the only employer to have introduced changes to its workplace. During the past year several employers have made similar changes in their benefits policy so that benefits packages no longer exclude the partners of gay and lesbian employees.



This ruling could have significant implications for young families, who are often forced to rent because of the high cost of housing.

Section 2 (1) of the Code prohibits discrimination in housing on the basis of 15 grounds, including family status.

Under this provision apartments and houses offered for "adults only" are no longer permitted. Last year in the case of *Cryderman v. York Condominium Corporation No. 216 et al.*, a Board of Inquiry ruled that Section 2 (1) also applies to the rental of condominium units.

This ruling could have significant implications for young families, who are often forced to rent because of the high cost of housing.

The migration of large numbers of people into southern Ontario during the 1980s placed a severe strain on existing housing stock and resulted in a rapid rise in the cost of housing. The increase in house prices in southern Ontario put many homes beyond the reach of first-time buyers, prompting developers to construct a substantial number of new homes, an increasing proportion of which were condominiums. In 1984 condominium units represented 4.7% of all housing starts. By 1988 this figure had risen to roughly 33%.

While most condominiums are owner-occupied, many are rented, sometimes to tenants who do not even know they are renting condominiums. The scarcity of affordable rental housing, especially since 1975 has made condominiums an increasingly important source of rental accommodation. Thus, rules of a condominium corporation can affect large numbers of renters as well as owners.

Condominiums, almost always townhouses or apartments, are governed by condominium corporations, whose directors are elected by unit owners. The corporation has the authority under the Condominium Act to pass bylaws. These bylaws govern, among other things, the fees to be charged for property maintenance and the use of common elements (e.g., the lobby, swimming pool, gym, laundry, etc.). As well, they may place restrictions on the uses to which units can be put. For example, many condominium corporations do not allow a unit owner to run a business out of his or her unit.

In 1990 a three-person Board of Inquiry was convened to hear several complaints against a number of Toronto-area condominium corporations that prohibited families with children under a certain age from living in their units. This case had significant ramifications for the condominium industry, since the evidence showed that many condominium corporations across the province had adult-only rules.

The Board found that the adult-only restrictions discriminated on the basis of family status, against

The Board found that the Code, in limiting protection against age discrimination in housing to those 18 and over, contravened Section 15 of the Charter of Rights and Freedoms.



DISCRIMINATION IN HOUSING

both adults and children in a family relationship. It further found that the restrictions discriminated against adults with children by denying them the right to enter into contracts without being discriminated against on the basis of their family status.

The respondent condominium corporations argued that the adult-only restriction was one based on age and not family status, in that the by-law excluded occupancy by persons 14 and under only, and therefore did not exclude families.

Since the Code provides protection against age discrimination only to those 18 and over, the corporations argued that their adult-only restrictions on children under 18 were not covered by the Code.

The Board found that the Code, in limiting protection against age discrimination in housing to those 18 and over, contravened Section 15 of the Charter of Rights and Freedoms. This section guarantees that "every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination based on ... age".

The Board made reference to Section 1 of the Charter, which allows for limitations on the rights protected in Section 15, if these limitations can be "demonstrably justified in a free and democratic society". It said, however, that in the area of housing, discrimination on the basis of any age is not 'demonstrably justified'. In other words, the Code must provide protection against discrimination for all individuals, regardless of their age, in the area of accommodation.

The Board ordered the condominium corporations to remove their age restrictions and awarded over \$36,000 in specific and general damages to the complainants. One of the complainants, who was forced to sell her unit, was awarded \$25,000 in general damages.

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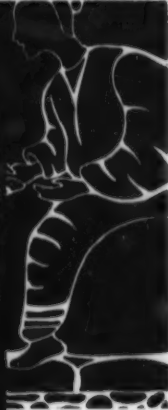


The Communications and Education Unit has responsibilities in the areas of education, training, communications, publications, outreach and special programs and projects.

Section 28 (d) of the **Code** requires the Commission to "develop and conduct programs of public information and education". In carrying out its mandate last year, the Unit took some significant steps. These included:

- developing and implementing a human rights training program for the Ontario Public Service, titled " **The Human Rights Code and its Implications** ." The program was designed for managers, supervisors and human resource practitioners and was offered in partnership with the Human Resources Secretariat;
- providing human rights training to trainers in business, industry and government agencies;
- completely revamping the Commission's publication distribution system, leading to distribution of more than a quarter million copies of publications;
- offering all publications produced by the Commission on audio-tape (French or English) on computer disk, in large print and in other languages on demand;
- producing two publications – Human Rights in Ontario, and If you Have a Human Rights Complaint using 'plain language format';
- distributing more than 60 news releases and press advisories, the largest number in Commission history;
- providing some 7,000 organizations with information packages on the December 10 International Human Rights Day;
- producing the Commission's Annual Report;
- launching a poster with the theme of "Equality" as a part of the December 10 International Human Rights Day celebrations;
- coordinating a native peoples outreach project to provide the Commission with feedback and advice on how to better serve the native community;
- coordinating forums on the Guidelines for Assessing Accommodation Requirements for Persons with Disabilities in Windsor, Hamilton and London.

Director: Alan Shefman



The Unit also played a support role to other operational initiatives across the Commission. Activities included:

- designing, developing and coordinating the most ambitious training conference in the history of the Commission. The three-day conference, was designed to assist human rights officers develop and refine their professional skills;
- organizing a two-day training and development conference for support staff who handle calls from the public to the Commission. This conference was designed to assist staff in providing consistent and sensitive service to the public;
- organizing a training session for regional managers and case coordinators on the Commission's policy document on Racial Slurs and Harassment and Racial Jokes;
- providing training support and advice to the Commission's Case Management Plan.

As the communications centre of the Commission, the Communications and Education Unit handles many of the day to day queries from the media and the public. Last year the Unit responded to hundreds of such queries; distributed Board of Inquiry decisions; coordinated speaking engagements for the Commissioners and Chief Commissioner and provided advice to other Units in the Commission on servicing the media and the public.



The Compliance Unit is the largest in the Commission. It operates through the staff of the 15 district offices in seven regions of Ontario.

The staff of the Unit is the public's first contact with the Commission. It is at the local level that complaints of discrimination are filed. The primary responsibility of the Unit is to investigate and resolve human rights complaints.

Staff also educate, train and provide advice to private and public sector employers, educational institutions, organized labour, advocacy groups and the public. In light of high priority being given to caseload reduction, however, staff activity in these areas has been somewhat reduced.

Initiatives for 1990 included:

- coordinating and implementing the Case Management Plan. The Plan features wide-ranging measures to increase the Commission's efficiency in responding to the large number of complaints and inquiries it receives. The main objective of the Plan is to reduce the existing caseload while cutting the length of time it takes to resolve new complaints. Elements include:

- a special task force created to complete investigation of the Commission's oldest complaints. The task force consists of 10 officers, a manager and a case coordinator;
- assigning only 10 cases at any time to human rights officers across the Commission (to improve morale and case handling efficiency); introducing a system of case handling which gives priority to urgent cases, such as those where the complainants have only a short time to live;
- giving legal staff specific regional responsibilities so officers can have easier access to legal support;
- Completing the Procedural Manual which will ensure consistency in complaint procedures across the Commission;
- creating new administrative roles to improve service: a Case Co-ordinator for each region, a Senior Case Co-ordinator, an Inquiries Co-ordinator, and a manager of Case Management;
- giving regional managers authority to review and close certain cases. These are cases

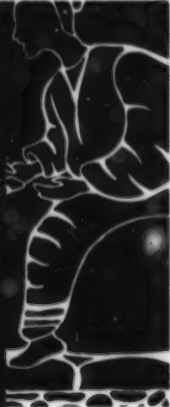
where the complainants have decided to withdraw their complaint; where they have abandoned the case or where a settlement has been arrived at by our internal process of Early Settlement Initiative;

- completing a major realignment of the Compliance Unit and the Legal Services Unit in March, 1991. Because regional offices are the front line delivery system for the entire Commission, it was felt that their operation requires a full-time leadership. A new Regional Services Unit was created, headed by the Director of Compliance.

The Unit manages the regional offices (including planning, performance management and resource allocation) and develops new, regionally based methods for delivering Commission programs. The Unit is also responsible for the Office of Reconsideration.

A position of Director Responsible for Case Management was also established last year. This position will take responsibility for case management, including case processing and monitoring, implementing the Case Management Plan, and the task force.

Director: Marty Schreiter



The Finance & Administration Unit supports the Commission's operations in human resources, financial planning and management, information technology and systems, and administrative services.

The Unit does this through developing and implementing sound management processes, policies and procedures.

In the past year, the Unit has:

- developed the Commission's Strategies for Renewal and an employment equity plan for 1991/92;
- begun development of a Commission performance management system;
- developed personnel, training and development strategies for the Commission;
- completed physical demands analyses for all Commission jobs;
- strengthened the Commission's financial management by developing or refining planning, budgeting and administrative processes and practices;
- decentralized budgetary responsibilities to the Commission's Units and its regional offices; improved the Commission's accountability, approval and monitoring processes;
- introduced an operational planning process;
- completed a plan for the Commission's information technology;
- provided computer software applications to all offices, to promote efficiency in handling administrative workload;
- trained staff, including those with special needs and disabilities, on the use of information technology.

The Unit also completed an accommodation plan for the Commission's head office and regional offices, to ensure that Commission facilities and resources are fully accessible to persons with disabilities.

Director: Albert Ganesh



LEGAL SERVICES

The Legal Services Unit assists the Commission in fulfilling all aspects of its mandate, particularly in investigation and conciliation, public education and litigation.

The Unit supports the work of human rights officers, regional case coordinators, regional managers and the special case management task force, by providing legal advice to assist in the resolution of complaints. A substantial amount of time is spent providing legal opinions on complaints and on other procedural issues relevant to the Commission. Members of the Unit also act as counsel to the Commission on matters of judicial review and on appeals.

Over the past year 28 new Boards of Inquiry were appointed while 36 newly appointed or continuing Boards were completed. Of the Boards completed 10 decisions were in favour of the complainants while 3 were in favour of the respondents. The Commission is currently involved in 10 appeals of Board of Inquiry decisions. (See Table 8 in Appendix for details).

Previously, the Commission retained the services of legal staff from the Ministry of the Attorney General or from private practice, to appear on its behalf of the Commission before Boards of Inquiry and the Courts. Since 1988 the Commission's staff counsel has handled complaints and developed expertise in the human rights field.

Legal staff respond to inquiries from lawyers in government and private practice and from the public. They also participate in workshops, seminars and conferences.

Director: Mark Frawley



POLICY & RESEARCH

The Policy and Research Unit develops policies and guidelines on the interpretation and application of the Code. These documents are designed for use by both Commission staff in the investigation of complaints and by members of the public who want to know their rights and responsibilities under the Code.

The Unit provides policy advice to the Commission. Its staff also represent the Commission on external committees and provide advice to organizations as part of the Unit's mandate to monitor and attempt to resolve human rights issues.

In the past year the Unit has engaged in the following activities:

- consulted with the Ministry of Education and the Ministry of Health to ensure that their statutes comply with the Code;
- provided input into the Ministry of Labour's proposed revisions to the Employment Standards Act and the Employment Agencies Act;
- consulted with the Ministry of the Solicitor General on the human rights implications of a "common pause" day and with the Ministry of Housing on issues relating to housing for seniors;

- met regularly with the Coalition of Lesbian and Gay Rights of Ontario, to identify community's concerns and to assist it with its equity issues;

- consulted with groups representing tenant rights, on issues relating to poverty and access to housing;

- attended and participated in a variety of conferences and educational forums by bodies such as the Canadian Bar Association, Ryerson Polytechnical Institute and the Canadian Public Personnel Management Association;

- coordinated an information exchange with other human rights agencies at the national and international level. The Director of the Unit continues to serve as the First Vice President of the International Association of Official Human Rights Agencies (IAOHRA). Through involvement with IAOHRA and its Canadian counterpart (CASHRA), the Commission contributed to new and cooperative solutions to discrimination.

Director: Tanja Wacyk



The Systemic Investigations Unit addresses discrimination present in the inner workings (or systems) of organizations. Systemic discrimination is not always visible. Rather, it is found in policies and practices that on the surface appear neutral, but which when applied can discriminate against members of groups protected by the Code.

The Unit last year developed Guidelines to assess programs ('special programs') for helping disadvantaged groups to gain equity in areas covered by the Code.

These Guidelines were created to encourage employers, service providers, landlords and others to review their operations and take steps to eliminate barriers to equality.

Because systemic discrimination often forms part of how organizations work, the most effective means of addressing it begins with initiatives to change the organization's way of operating. This can be done by creating a 'special program', such as an employment equity program, aimed at increasing the number of designated group members in the workplace. (The groups designated by the Ontario government for special provisions in the Ontario Public Service are persons with disabilities, Aboriginal Peoples, women, racial minorities and francophones).

The Guidelines help organizations to understand how their program would likely be assessed by the Commission, if that program were to be challenged in a complaint. The Guidelines played an important role in the Commission's review and approval of an employment equity program implemented by the Ontario College of Art. (See page19)

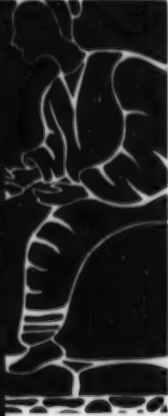
ENFORCEMENT

The Unit is responsible for "strategic enforcement" of the Commission's "Guidelines for Assessing Accommodation Requirements for Persons With Disabilities". This involves identifying and attempting to dismantle systemic barriers faced by persons with disabilities. Last year barriers were identified through community consultation and recommendations were made to the Commission to initiate complaints against several organizations.

One such complaint was laid against Trent University. Through the Unit's community consultation, the Commission learned first-hand how lack of access to higher education creates barriers to the future career success of persons with disabilities. Obstacles they encounter in universities include not being able to enter buildings and not having material in a format they can use.

In November 1990, after being made aware of concerns brought forward by students with disabilities, the Commission initiated a complaint against Trent University and the Ministry of Colleges and

Director: Anita Dahlin



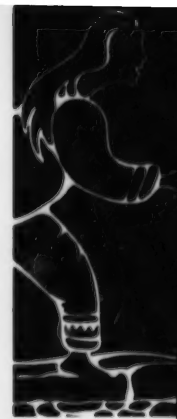
Universities. The complaint is currently under investigation. Last year the Unit also:

- worked with the Compliance and Legal Units to initiate discussions with the Ministry of the Attorney General and the Ministry of Government Services on the issue of access for persons with disabilities to courthouses throughout the province;
- negotiated with the ministries to develop a plan outlining a timetable to make all leased and owned courthouses in the province accessible to persons with sensory and mobility impairments. The Ministry of the Attorney General has also agreed to adopt a communications strategy outlining its commitment to accommodation. This commitment will involve, where necessary, moving court proceedings to alternative venues;
- took the lead role in coordinating the Commission's complaints against two Toronto employment agencies (See page 27);
- worked closely with the Legal Unit to construct a detailed employment equity remedy as settlement to a sex discrimination complaint against Lily Cups Inc. (See page 21). Although the complaint was filed by an individual, the systemic remedy was applied across the organization to deal with the under-representation of women caused by the kind of barriers the complainant faced.

PUBLIC EDUCATION AND OUTREACH

In the area of public education and outreach, the Unit reviewed special programs submitted by service providers and employers. The Director also attended the launches of employment equity programs at the University of Guelph and the University of Windsor and addressed a provincial meeting of employment equity coordinators. Unit staff made a number of presentations and addressed meetings dealing with employment equity, transportation for disabled persons, AIDS, and substitute decision making and consent to health services.

On December 10, 1990, in commemoration of International Human Rights Day, the Unit spent the day filling food orders at the Daily Bread Foodbank. This was an opportunity to learn first-hand about the impact of hunger, and the dignity denied those who must endure line-ups to obtain such a fundamental human right as food.



EMPLOYMENT EQUITY

The Executive Director is directly responsible for the Commission's Employment Equity program. Implementation of the program began in May 1990, with the hiring of an employment equity coordinator.

The goal of the employment equity program is to create a workforce that at all job levels reflects the make-up of the Ontario population. This will be accomplished by increasing the number of staff from designated groups [women, aboriginal peoples, racial minorities, persons with disabilities and Francophones] at all levels of the Commission.

The main thrust of the program is to undertake supportive, remedial and direct measures in:

- internal staff development and promotion and;
- external recruitment and selection.

This is being accomplished against a backdrop of a high percentage of job applicants from designated groups and, more importantly, a recognition of the need to provide service to Ontario's diverse population.

INTERNAL DEVELOPMENT AND PROMOTION

Activities in this area include:

- creation of 14 'bridging' positions to provide opportunity for administrative support staff to develop skills as human rights officers; and for human rights officers to work as managers;
- designating temporary vacancies as acting assignments for staff;
- creating of a one-year developmental position to train a support staff member from a designated group as a Level 1 human rights officer;
- establishing a support staff forum to provide input and feedback on employment equity issues in the workplace. This also provided opportunities for support staff to gain experience in organizing and chairing meetings;

- researching the use of mentors to assist in career development.

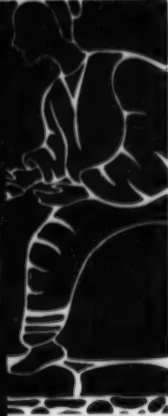
EXTERNAL RECRUITMENT AND SELECTION

Key initiatives included:

- developing a policy that includes designated group membership as one of the factors considered during the hiring process, when candidates are qualified and when seniority is not a factor;
- replacing the university degree as a job pre-requisite, with a required combination of education and work experience;
- sending notices of Commission job postings to 110 community agencies;
- contributing to the increase in the number of aboriginal persons and persons with disabilities hired in the head office and in the Toronto region, by establishing partnerships with agencies serving members of those groups;
- meeting and in some cases exceeding employment equity hiring targets across the Commission. Of 58 staffing decisions (39 of which were management and non-clerical staff positions), 53 or 91 percent of competitions were won by members of designated groups. Seven out of 10 one-year positions on a special investigative task force were awarded to members of employment equity target groups.

The speed with which the employment equity program is implemented will depend largely on vacancies and on financial resources. However, the achievement of a workforce that reflects the Ontario population is a top priority and one to which much effort is being dedicated.

Executive Director: Lesley Lewis



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COMPLAINTS BY REGION OF REGISTRATION AND GROUNDS

	Race/ Colour	Ethnic Origin (Indigenous/ Immigrant/ Place of Birth)	Creed	Sex And Pregnancy	Sexual Harassment	Sexual Orientation	Marital Status	Family Status	Handicap	Public Assistance (Only in Accommodations)	Record of Offences (Only in Employment)	Breach of Settlement	Reprisal	Percentage % Total	Percentage %	
Eastern	29	17	6	56	25	2	19	14	4	112	8	0	0	1	293	15
Hamilton/Niagara	13	3	1	32	18	3	7	4	6	79	2	0	3	0	114	9
Northern	29	15	6	49	17	4	18	8	20	100	6	0	0	0	272	14
Southwestern	22	10	4	33	35	4	24	3	14	124	4	0	0	0	171	14
Toronto Central	65	14	14	51	25	19	24	4	11	102	5	1	3	0	338	17
Toronto East	68	13	5	61	24	3	21	4	14	134	1	1	3	0	347	18
Toronto West	58	10	7	32	13	2	12	3	10	106	9	0	4	2	268	14
Total	284	82	43	314	157	37	125	40	79	757	35	2	13	3	1968	
Percentage %	14	4	2	16	8	2	6	2	4	38	2	0	1	0		

COMPLAINTS RECEIVED BY GROUND AND PROVISION



APPENDIX 1 - TABLE 2

	<i>(Excludes) Race/Colour</i>	Ethnic Origin	Sex And Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance (Only in Employment)	Record of Offences (Only in Employment)	Breach of Settlement	Reprisal	Percentage % Total	
Services	58	20	7	13	0	14	8	15	7	113	0	0	0	255	13
Accommodation	33	5	0	4	4	5	8	8	45	28	34	0	0	21	9
Contracts	2	0	0	3	0	0	1	1	0	2	0	0	0	9	8
Employment	188	57	36	293	153	18	107	16	27	610	1	2	0	1000	76
Vocational Association	3	0	0	1	0	0	1	0	0	4	0	0	0	9	8
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0	13	13	1
Breach of Settlement	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0
Total	284	82	43	314	157	37	125	40	79	757	35	2	13	3	1971
Percentage %	14	4	2	16	8	2	6	2	4	38	2	0	1	0	
Extension of Code Provision also cited in complaints:															
Constructive	1	1	0	5	0	2	3	0	1	3	2	0	0	0	

SETTLEMENTS EFFECTED BY GROUND

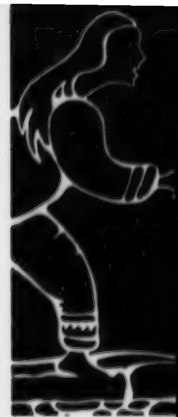
		Number of Complainants Who Receive Damages	Offer of Job or Facility for Next Job or Facility	Offer of or Consideration Affirmative Action Implemented	Responsive Action Seminars with Review of Policies or Documents	Issuance or Correction of References to Complainant	Written Declaration of Management Policies Letter of Apology to Complainant			
Race/Colour	\$247,155	44	18	2	1	10	19	17	24	55
Ethnic Origin	\$5,318	5	10	0	1	2	9	4	11	9
Creed	\$60,907	5	5	2	0	0	5	0	4	7
Sex & Pregnancy	\$172,156	58	36	4	3	3	28	19	14	66
Sexual Harassment	\$154,666	54	4	1	0	11	24	11	16	49
Sexual Orientation	\$6,622	6	4	1	1	0	5	1	8	9
Age	\$93,727	14	17	3	0	0	6	4	4	19
Marital Status	\$28,400	8	5	1	0	3	3	1	6	7
Family Status	\$19,800	14	20	2	0	1	16	0	10	20
Handicap	\$570,650	187	130	12	1	18	61	60	33	163
Receipt of Public Assistance	\$550	2	2	1	0	0	2	0	3	5
Others	\$7,000	2	0	0	0	0	0	2	0	2
Total	\$1,366,951	399	251	29	7	48	178	119	133	411

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EMPLOYMENT COMPLAINTS CLOSED BY DISPOSITION AND GROUND

	Race/Colour (citizenship/immigrant place of origin)	Ethnic Origin	Sex And Pregnancy Creed	Sexual Orientation	Age	Marital Status	Family Status	Record of Offences (only in Employment)	Breach of Settlement / Immigration Act Provisions	Percentage % Total	
Recruitment & Hiring											
Settled	14	7	5	29	1	20	2	10	47	0	138
Dismissed/ Not Pursued	3	8	2	4	0	3	0	0	8	0	28
Withdrawn	4	2	2	7	0	7	1	0	9	1	34
Sub-Total	21	17	9	40	1	30	3	10	64	1	190
Percentage%	11	9	5	20	1	15	2	5	33	1	0
Termination											
Settled	36	9	4	92	3	21	6	4	292	0	473
Dismissed/ Not Pursued	11	6	2	6	0	4	2	0	56	0	88
Withdrawn	15	4	2	22	2	14	4	1	100	0	164
Sub-Total	62	19	8	120	5	39	12	5	454	0	725
Percentage%	9	3	1	17	1	5	2	1	62	0	0
During Employment											
Settled	38	12	11	30	5	8	1	2	80	1	188
Dismissed/ Not Pursued	21	2	4	3	2	7	2	0	12	0	53
Withdrawn	13	3	0	9	1	6	1	0	18	0	51
Sub-Total	72	17	15	42	8	21	4	2	110	1	292
Percentage%	25	6	5	14	3	7	1	1	38	0	0
Total	155	53	32	202	14	90	19	17	628	2	1213

EMPLOYMENT COMPLAINTS CLOSED BY TYPE OF WORK



APPENDIX 1 - TABLE 6

	(Excludes minority status as single)	Race/ Colour	Ethnic Origin	Sex And Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences (Last 5 Years)	Breach of Settlement / Repudiation / No Award	Percentage % Total	
Professional/ Managerial/ Technical (Lawyer, Technician, Manager, Teacher, Inspector, Nurse, etc.)	45	18	10	47	14	5	32	5	3	71	0	0	250	19
Sales (Sales Representative, Buyer, Sales Clerk, etc.)	8	3	1	17	17	3	10	1	0	48	0	0	108	8
Clerical (Typist, Filing / Account Clerk, Receptionist, Key Puncher, etc.)	24	10	6	61	44	1	19	4	9	101	0	0	279	21
Crafts and Foreperson (Plumber, Baker, Hairdresser, Lead Hand, Mechanic, etc.)	8	5	1	11	6	1	1	1	1	56	0	0	91	7
Operatives (Punch Press / Lathe / Machine / Crane operator, Welder, etc.)	16	4	1	11	4	0	2	1	0	71	0	0	110	8
Services (Waiter / Waitress, Domestic, Building Superintendent, Security Guard, etc.)	26	6	4	33	33	2	19	3	3	65	0	1	195	15
Labour / General (Driver, Shipper, Cleaner, Assembly Line Worker, Labourer, Factory Hand, etc.)	28	7	9	22	19	2	7	4	1	216	2	0	317	23
Total	155	53	32	202	137	14	90	19	17	628	2	1	1350	

CASES CLOSED BY RESPONDENTS' TYPE OF INDUSTRY

	Race/Colour (Excludes majority place of origin)	Ethnic Origin (Excludes majority place of origin)	Sex And Pregnancy Creed	Sexual Harassment	Sexual Orientation	Marital Status Age	Family Status	Handicap	Public Assistance (Only in Employment)	Record of Offences (Only in Employment)	Branch of Settlement/ Suspension/No Award	Percentage % Total		
Natural Resources	2	0	0	4	2	0	0	0	1	20	0	0	29	2
Manufacturing														
Metals/Parts/ Machinery	15	1	0	12	6	0	5	0	0	55	0	0	83	3
Food/Tobacco	5	1	2	1	4	0	0	2	0	21	0	0	33	1
Wood/Furniture/Paper	1	0	0	2	3	0	3	0	0	17	0	0	24	1
Automotive/Aircraft	9	2	1	3	3	1	4	2	0	45	0	0	61	2
Electrical	6	1	0	6	2	0	0	1	0	16	0	0	32	1
Others	10	3	2	15	8	2	9	3	1	94	0	0	148	5
Sub-Total	46	8	5	39	26	3	21	8	1	248	0	0	808	23
Construction	4	2	2	3	5	0	1	0	0	11	0	0	28	2
Transportation/ Communications/ Utilities	8	8	4	7	5	2	2	4	1	31	0	1	73	4
Trade and Retail	25	6	2	36	26	2	12	5	2	108	1	0	225	13
Finance/Insurance/ Real Estate	33	4	2	25	9	5	15	10	46	47	19	0	219	12
Community/Business/ Personal Services														
Schools/Colleges/ Universities	14	7	5	9	2	3	6	3	0	13	0	0	76	3
Hospitals/Physicians	9	2	4	7	3	2	9	0	1	38	0	0	76	3
Employment Agencies	1	1	0	2	2	0	3	0	0	4	0	0	13	1
Hotels/Resaurants	20	4	2	26	21	3	8	0	5	39	1	0	132	5
Others	47	19	11	52	35	8	21	10	8	121	0	0	336	13
Sub-Total	91	33	22	96	63	16	47	13	14	215	1	0	621	35
Public Administration	24	20	8	18	2	10	14	3	3	54	1	1	160	9
Total	233	81	45	228	138	38	112	43	68	734	22	2	1763	

BOARDS OF INQUIRY APPOINTED & COMPLETED

	1990 / 91	1989 / 90
Boards Appointed	28	21
Boards Completed	36	19
Pre-hearing settlements	20	10
Decisions for Complainant	10	5
Decisions for Respondent	3	4
Board Decisions Under Appeal	10	7

INQUIRIES, VOLUNTARY COMPLIANCE AND PUBLIC EDUCATION

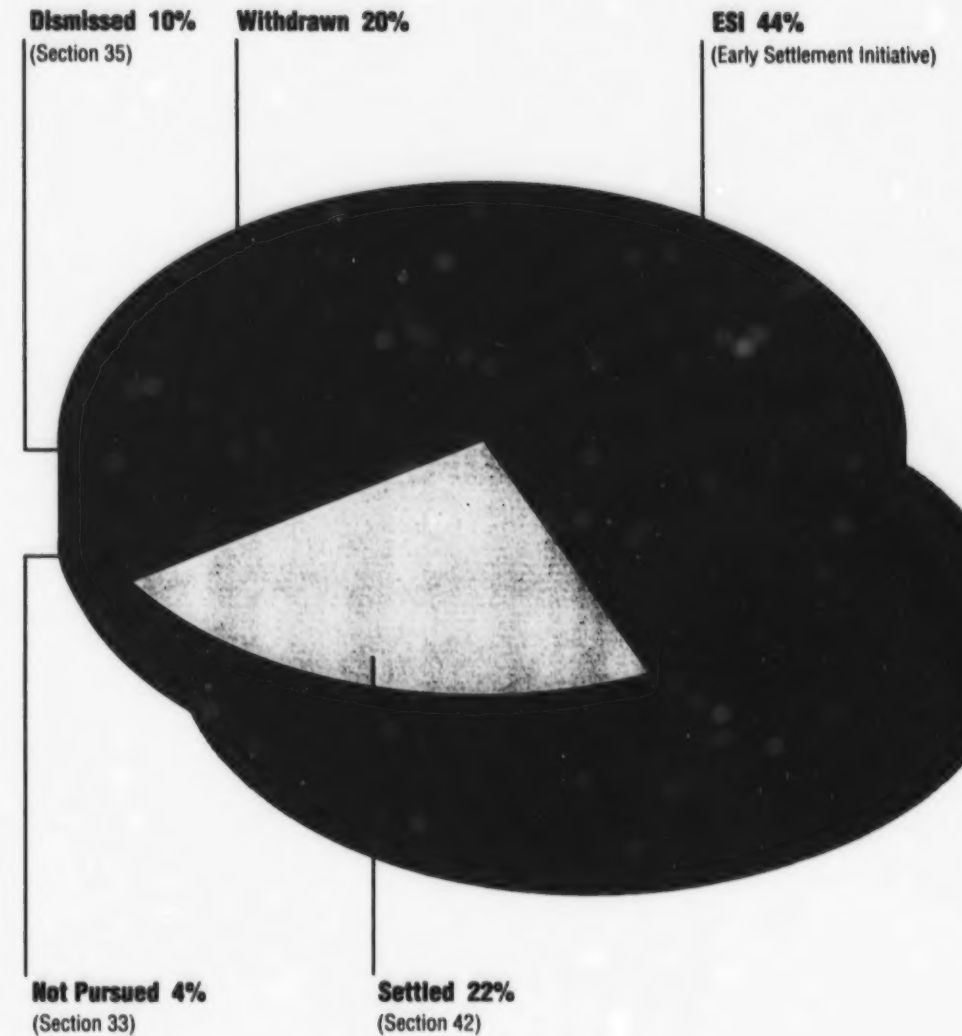
	1990 / 91	1989 / 90
Inquiries	56,448	61,901
Referrals	13,895	13,594
Application Form Reveiws	447	470
Public Education Activities	332*	402

*Reduced activity by regional staff due to priority on caseload reduction

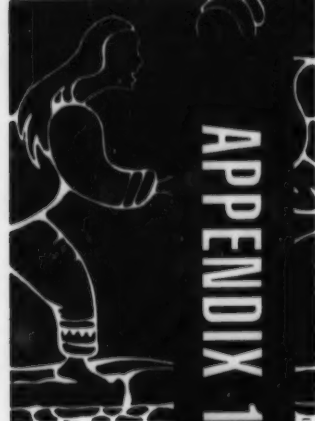
APPENDIX 1 - TABLE 8 & 9

APPENDIX 1 - CHART 1

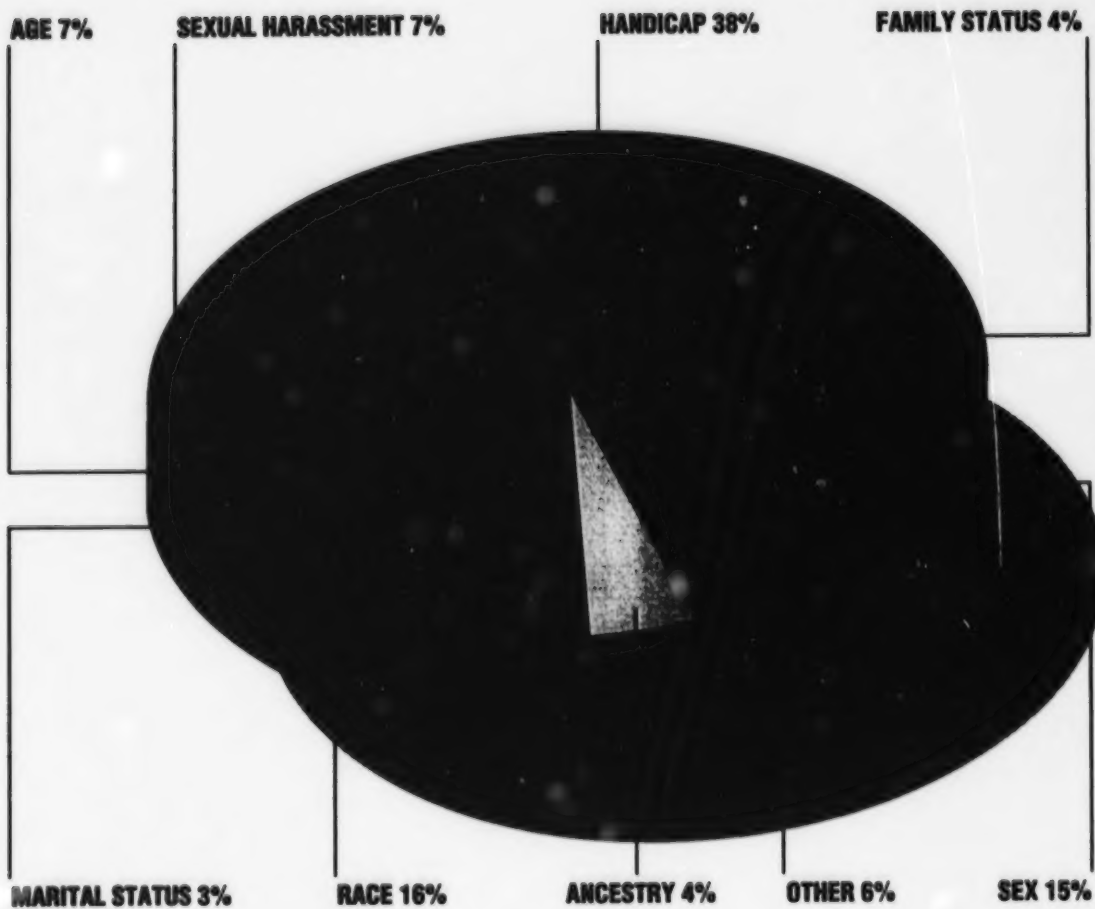
CASES CLOSED BY DISPOSITION



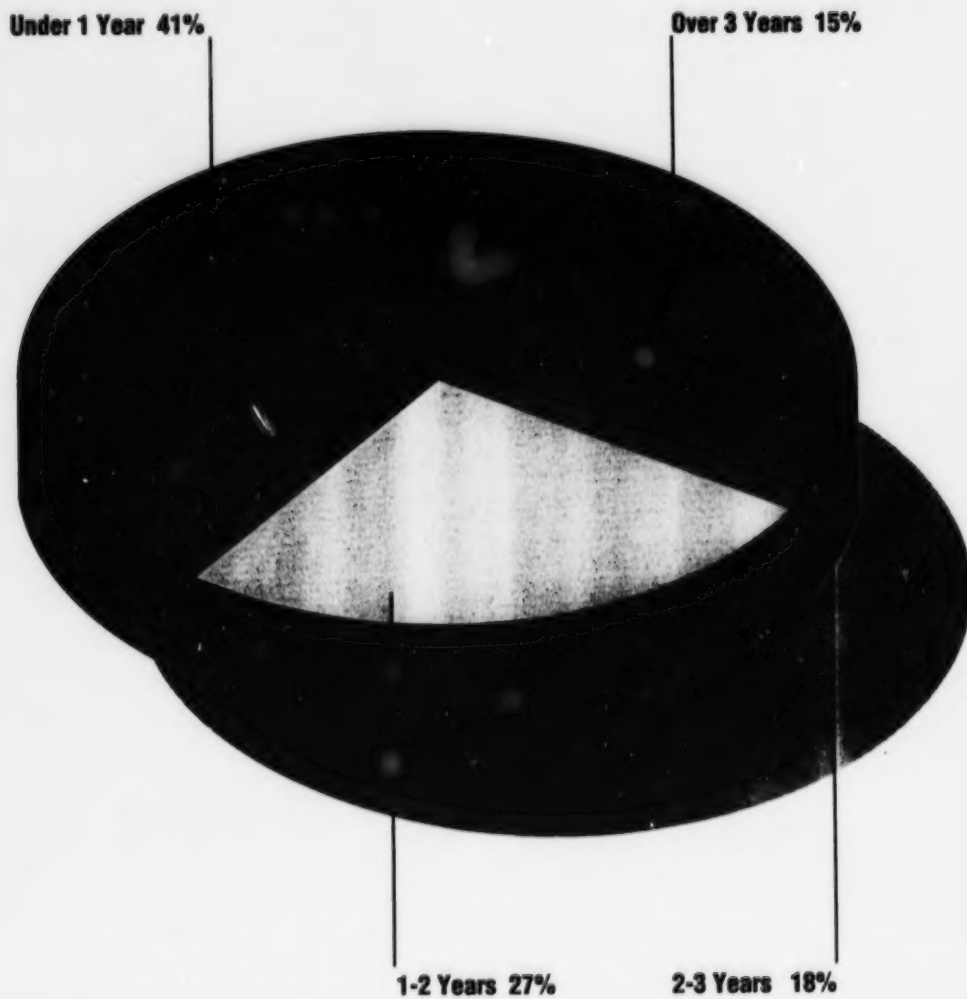
CASELOAD BY GROUNDS



APPENDIX 1 - CHART 2



CASELOAD BY AGE



STAFF OF THE ONTARIO HUMAN RIGHTS COMMISSION*

CHIEF COMMISSIONER'S OFFICE

Cain, Wylie
Choudhury, Nisha
Dissanayake, Shanthi
Frazee, Catherine
Hoy, Peter
Locke, Sandra
Price, David
Smith, Lorraine

EXECUTIVE DIRECTOR'S OFFICE

Jim, Serena
Leigh, Woh-Peng
Lewis, Lesley
Stager, Bev.

COMMUNICATIONS & EDUCATION UNIT

Brown, Maureen
Dales, Daphne
Jolas, Huguette
Justason, Barbara
Leader, Leonard
Shaw, Ted
Shefman, Alan
Silberman, Toni
Wu, Bill

LEGAL UNIT

Lim, Helen
D'Silva, Alan
Davis, Lillian
Frawley, Mark
Ginsburg, Marilyn
Griffin, Tony
Hart, Mark
Joachim, Kay
Kermany, Mollie
McCloy, Chris
Overend, Naomi C.
Palacio, Roger
Pike, Cathryn

Rosen, Joanne
Sanson, Geraldine
Speranzini, Gary

CASE MANAGEMENT

(Under the direction of Mark Frawley,
Director of Legal Services and Director
responsible for Case Management)

Charlsey, Anne
Frawley, Mark
Gaspar, Fern
Quigley, Christine
Ramanujam, Sita

REGIONAL SERVICES UNIT

Hurley, Helen
Schreiter, Marty
Reconsideration Unit

Barnes, Dorothy
Svezgda, Laima
Task Force
Bridgewater, Guy
Butler, Frank
Edwards, Neil
Ford, Maurice
Lee Rose
MacArthur, Mary
Massiah, Errol
McCullough, Wayne
Pangilinan, Francisco
Rainone, Lori
Samuel, Mary
Young, Robert

FINANCE & ADMINISTRATION UNIT

Bhawanie, Stella
Bacchus, Ingrid
Brophey, Brian
Ganesh, Albert
Lees, Deborah
McKee, Anne
Rodriguez, Marion
Tharrenos, Tia
Wong, Fiona

Human Resources

Colombe, Deborah
Leslie, Heather
Jackson, Marilyn
Jeffrey, Elizabeth
Pereira, Dennyson
Yatco, Jose

SYSTEMIC INVESTIGATION UNIT

Anderson, Patrick
Dahlin, Anita
Leibman, Ellen
Mahoney, Owen
Morell, Celine
Sangha, David
POLICY UNIT
Bernard, Calvin
Buckingham, Darlene
Carson, Bruce
Conroy, David
Fiddes, Judith
Laird, Katherine
Wacyk, Tanja

TORONTO CENTRAL

Barrett, Janet
Breiding, Bronwyn
Della-Nebbia, Nancy
Della-Vella, Rick
DeStefano, Rose
Downey, Terry
Doyle, Dee
Goh, Andre
Gupta, Nila
Isabella, Rosina
Leung, Andy
Markwick, Michael
McKenzie, Patrice
Obermuller, Diane
Pappas, Catherine
Satnarine, Tara



* includes contract and secondment personnel



Wells, Stanley
Williams, Ashworth

TORONTO EAST

Caffrey, Colm
Crowe, Sheila
Fernandes, Christina
Horsford, Jocelyn
Ioi, Rod
Jackson, Tara
Kelly, Douglas
Kerna, Gloria
Lloyd, Eva
Masellis, Vicki
Phillips, Lolita
Reilly, Bernice
Sahadeo, Harold
Seales, Robert
Thoo, Valerie
Wagg, Anita
Young, Tammy

TORONTO WEST

Chapman, Shirley
Cooper, Connie
Fernandes, Martha
Forghani, Angela
Fox, Anita
Gayle, Harold
Giesbrecht, Dennis
Lam, Marian
McPhee, Nola
Molloy, Peggy
Monck, Jennifer
Morrison, Glen
Sibbles, Geanine
Smith, Dolores
Soondarsingh, Vijay
Tayag, Cora

EASTERN REGION

Ottawa Region

Armstrong, Neil
Connolly, Anita
Delph, Esther
Kalimootoo, Roxanne
Laflamme, Sylvie
Maillet, Rene
Richard, Maurice
Savage, George
Ushe-Robb, Thoko

Kingston

Cotton, Murray
Crowe, Tanis
Dain, Margaret
Perry, Janet
Polley, Joe

HAMILTON/NIAGARA REGION

Hamilton

Braun, Michele
Brick, Jackie
Gamble, Colina
Jostman, Susan
McCleary, Ottmar
MacKinnon, Michael
Lacourse, Diane
Ras, Theresa
Strojin, Alan

St. Catharines

Cargill-Sim, Fiona
Crawford, Larissa
Erickson, Suzanne
Strojin, Anny

NORTHERN REGION

Sudbury

Coutu, Gisele
Lapalme, Gilles
Serpell, Frances
Welch, Dan

Sault-Ste-Marie

Fratesi, Debra
Murray, Jacqueline
Taylor, Lisa
Zack-Caraballo, L.

Thunder Bay

Bava, Lina
Buffington, Margaret
Fraser-Homonick, K.

Timmins

Lanthier, Elise
Skinner, Diane
St. Onge, Joanne

Kenora

Wasacasse, Maureen

SOUTHWEST REGION

London

Ackroyd, Lynda
Burns, Walter
Frank, James
Howard, Mary Ann
Wisdom-Lumsden, M.

Kitchener

Barker, Sheridan
Cobb, Don
Mushega, Abbey
Wagner, Shari

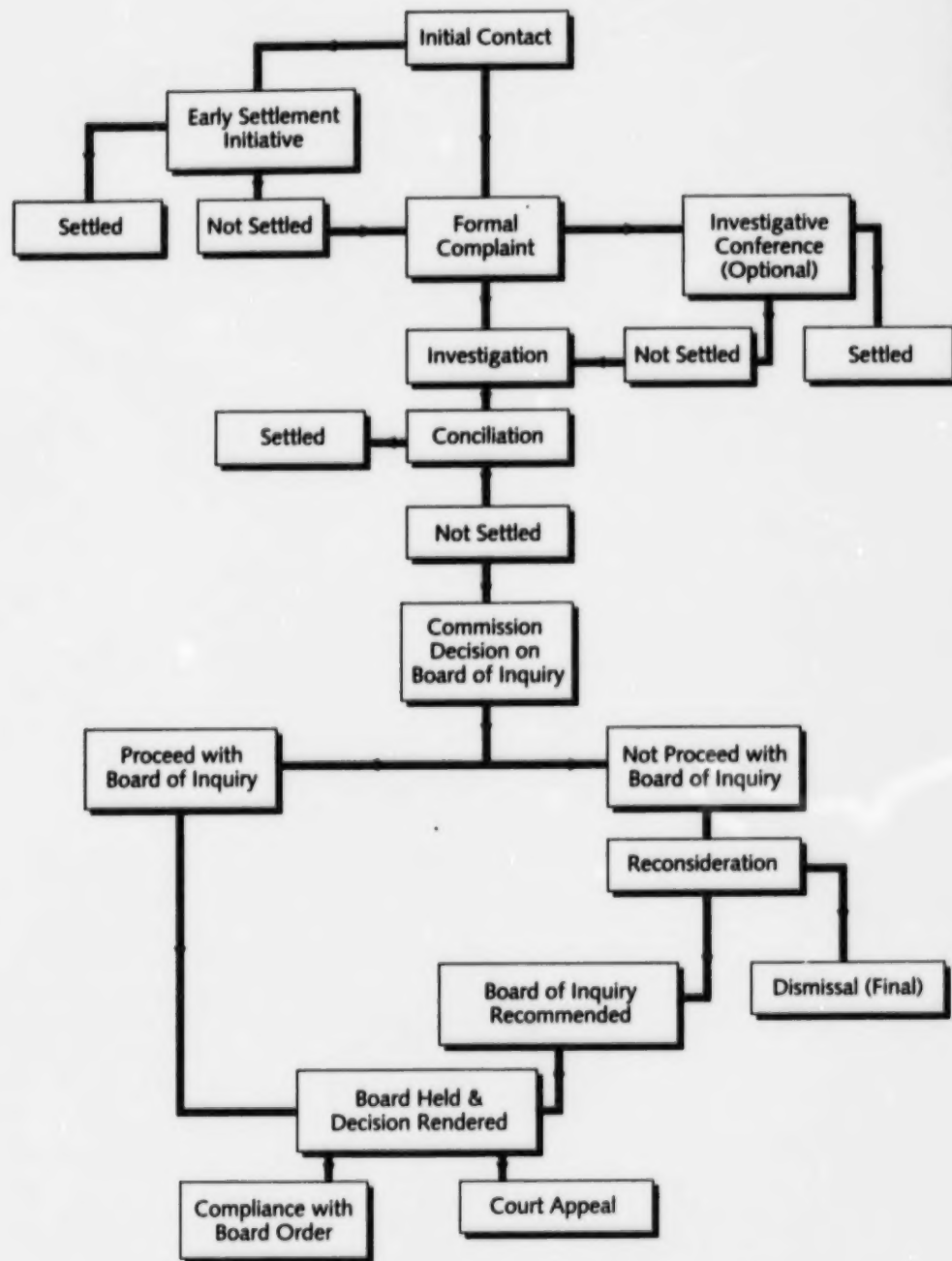
Windsor

Carrick, Anne
Koushik, Aruna
MacKinnon, Sandra
MacKinnon, Christopher

COMMISSIONERS

Ronson, Lou
Devins, Reva
Gill, Pam
Kishkon, Elizabeth
Lenkinski, Louis
Philpott, David
Porter, Jody

HUMAN RIGHTS COMPLAINTS PROCESS





A PLAIN LANGUAGE GUIDE TO MAKING A HUMAN RIGHTS COMPLAINT

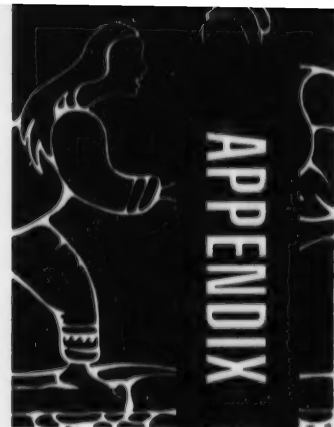
THE INFORMAL SETTLEMENT

- Step 1** Try to write a description of how you have been discriminated against or harassed. Include who was involved and when the discrimination happened.
- Step 2** Call or write to the Human Rights Commission and give us the details of your discrimination.
- Step 3** We will contact the person or company you are complaining about and discuss the information that you have given to us. The person or company you are complaining about is called the respondent.
- Step 4** Our talking with the person you are complaining about can often settle the problem. If it does not, you can file a formal complaint.

THE FORMAL COMPLAINT

- Step 5** You meet with a human rights officer and fill out a form describing your complaint. The complaint is sent to the person(company) you are complaining about.
- Step 6** We study your complaint and what the respondent says about it. You and the person you are complaining about may come to a meeting with us and try to solve the problem.
- Step 7** If a meeting solves the problem, the settlement is put in writing and you and the person you are complaining about sign it. If a settlement is not reached, we will investigate your complaint.
- Step 8** We investigate your complaint fully by looking at any documents that apply to your case and talking with people who know about your situation. We have a meeting with you and the person you are complaining about, give the results of the investigation, and try to reach a settlement.
- Step 9** If you reach a settlement, the Commissioners may approve it. If you do not reach a settlement, the Commissioners make the final decision on your case. They might arrange for a Board of Inquiry to look into your complaint.
- Step 10** If you are unhappy with the decision of the Commissioners you can ask them to look at your case again. If you are unhappy with the decision of the Board of Inquiry, you can appeal it in court.

AREAS AND GROUNDS COVERED BY THE CODE



APPENDIX 5

The **Human Rights Code, 1981**, provides that every person has a right to freedom from discrimination in the following areas:

- services, goods and facilities
- the occupancy of accommodation
- contracts
- employment
- membership in vocational associations and trade unions

on the grounds of:

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed
- sex
- sexual orientation
- handicap
- age
- marital status
- family status
- the receipt of public assistance
- record of offenses

HUMAN RIGHTS COMMISSION OFFICES

HEAD OFFICE

400 University Avenue
Toronto, Ontario
M7A 2R9
(416) 314-4500/ 314-4600
TDD (416) 314-4535

TORONTO CENTRAL

595 Bay Street, 4th Floor
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M5G 2C2
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TDD (416) 326-9669

TORONTO EAST

2500 Lawrence Avenue
East
2nd Floor
Scarborough, Ontario
M1P 2R7
(416) 750-3575
1-800-268-6585
TDD (416) 750-3302

TORONTO WEST

2 Robert Speck Parkway
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Mississauga, Ontario
L4Z 1H8
(416) 273-7811
1-800-268-2808
TDD (416) 273-6648

SOUTHWEST REGION

London

355 Dufferin Avenue
Suite 601
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(519) 438-0076
1-800-268-8333
TDD (519) 438-4207

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4th Floor
Kitchener, Ontario
N2G 1G1
(519) 570-9622

Windsor

500 Ouellette Avenue
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Windsor, Ontario
N9A 1B3
(519) 256-8278
1-800-265-5140
TDD (519) 256-4410

HAMILTON/NIAGARA REGION

Hamilton

119 King Street West
8th Floor
Hamilton, Ontario
L8N 3Z9
(416) 521-7870
1-800-668-9508
TDD (416) 546-8278

St. Catharines

1 St. Paul, Suite 603
St. Catharines, Ontario
L2R 7L4
(416) 684-7406
1-800-263-4916

EASTERN REGION

Ottawa

2197 Riverside Drive
Suite 301
Ottawa, Ontario
K1H 7X3
(613) 738-2801
1-800-661-0228
TDD (613) 232-3909

Kingston

80 Queen Street
Suite 202
Kingston, Ontario
K7K 6W7
(613) 548-6750
TDD (613) 267-5755

NORTHERN REGION

Sudbury

199 Larch Street
6th Floor
Sudbury, Ontario
L3E 5P9
(705) 675-4455
1-800-461-4000
TDD (705) 675-6392

Sault Ste. Marie

390 Bay Street
3rd Floor
Sault Ste. Marie, Ontario
P6A 1X2
(705) 942-8417
1-800-461-0551

Thunder Bay

28 North Cumberland,
Suite 403
Thunder Bay, Ontario
P7A 4K9
(807) 343-6003
1-800-465-8996

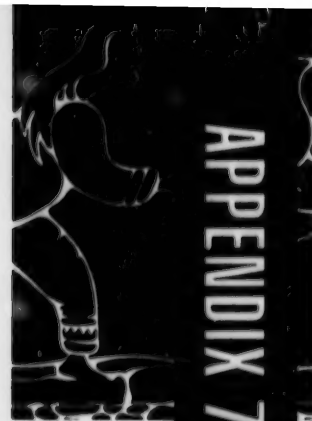
Timmins

210 Spruce Street South
Suite 103
Timmins, Ontario
P4M 2M5
(705) 268-2838
1-800-461-7863

Kenora

227 2nd Street South
3rd Floor
Kenora, Ontario
P9N 1G1
(807) 468-2866

LIST OF PUBLICATIONS



NAME OF PUBLICATION (all publications are bilingual)

1. Human Rights Code, 1981
2. Guide to the Human Rights Code
3. Employment Application Forms & Interviews
4. Human Rights in Employment
- 5a. Guidelines for Assessing Accommodation Requirements for Persons with Disabilities (brochure)
- 5b. Accommodation of Persons with Disabilities (pamphlet)
6. Human Rights and Sexual Harassment
7. OHRC Policy Statement on HIV/ AIDS Related Discrimination
8. Exceptions to the Equality Rights Provision of HR Code in the Workplace
- 9a. Policy on Racial Slurs & Harassment & Racial Jokes (brochure)
- 9b. Racial Slurs & Harassment & Racial Jokes (pamphlet)
10. OHRC Policy Statement on Height and Weight Requirements
11. Annual Report
12. Policy on Driver's Licence as a Condition of Employment
14. Policy on Employ.-Related Medical Information
15. Declaration of Management Policy (poster)
16. Guidelines on Special Programs
17. If You Have a Human Rights Complaint
18. Know Your Rights Series:
 - Sexual Orientation and the HR Code (one page)
 - AIDS & AIDS-Related Illness and the HR Code (one page)
19. Human Rights in Ontario
20. Discrimination Because of Handicap
21. Guidelines for Internal Human Rights Complaint Resolution Procedures
22. Policy Statement with Respect to Exclusionary Scholarships

For all publication requests, please contact::

The Ontario Human Rights Commission
Communications and Education
400 University Avenue, 12th Floor
Toronto, Ontario M7A 2R9
Telephone: (416) 314-4526